



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

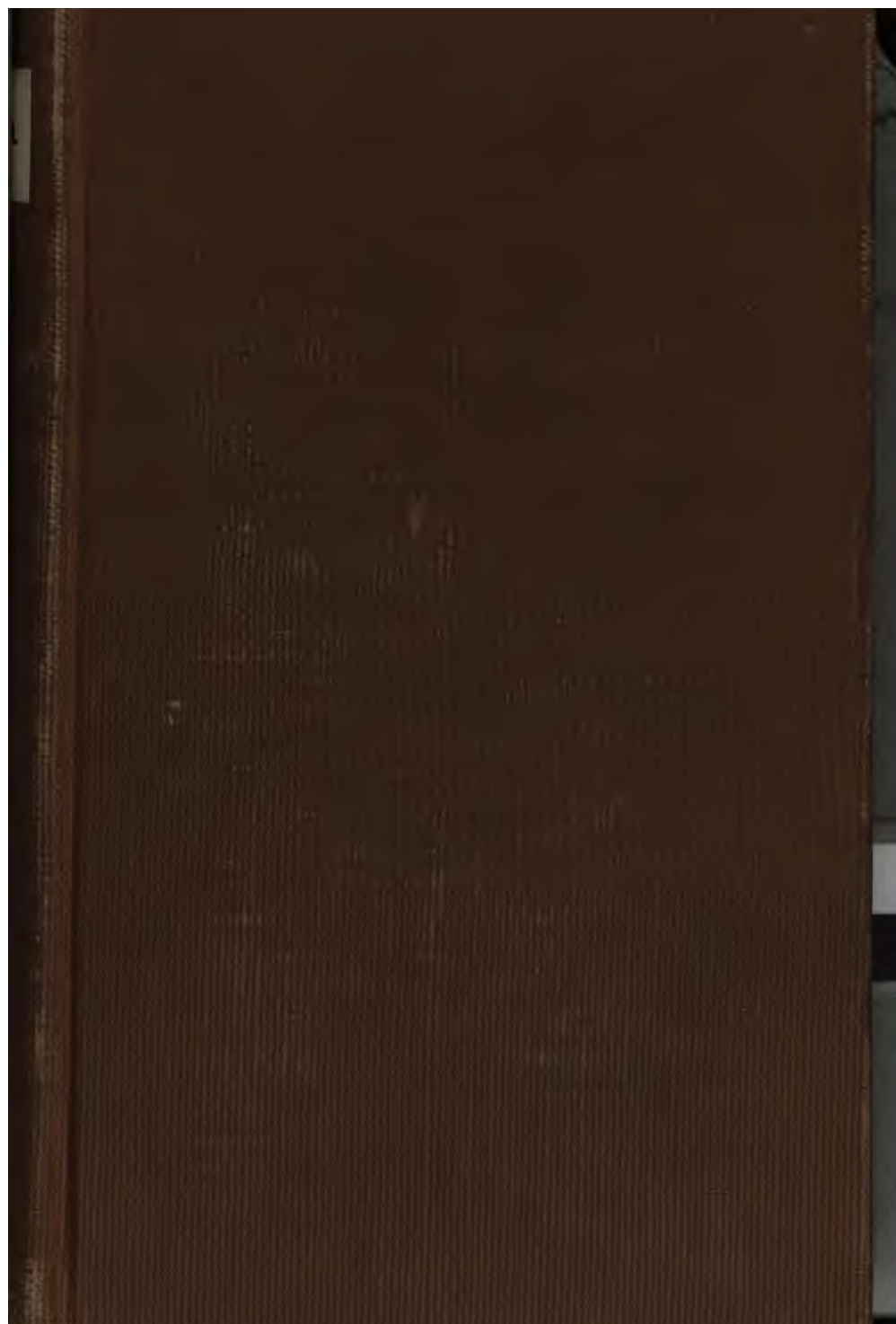
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



225 5022.11



Harvard College Library

THE GIFT OF

SAMUEL ABBOTT GREEN, M.D.

OF BOSTON

(Class of 1851)





4-22

6

5-18
12

1

6

THE

L I F E

AND

POLITICAL OPINIONS

OF

MARTIN VAN BUREN,

VICE PRESIDENT OF THE UNITED STATES.

BY

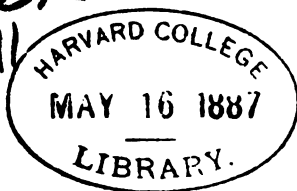
WILLIAM M. HOLLAND.

HARTFORD.

BELKNAP & HAMERSLEY.

1835.

~~7393.21a~~
U.S. 5022, 11



*Dr. F. A. Green,
Boston.*

Entered according to Act of Congress in the year 1835, by
BELKNAP & HAMERSLEY,
in the Clerk's Office of the District Court of Connecticut.

J. HUBBARD WELLS, PRINT.

11227
24

P R E F A C E .

ASIDE from the present relation of Mr. Van Buren to the people of the United States, the fact of his having risen in times of peace, from the ordinary level of life, to the second office in the government, renders a view of his principles, and of the incidents of his personal history, a matter of reasonable curiosity.

The author has therefore, devoted a period of entire vacation from his ordinary duties, to the collection and arrangement of such materials as may fully exhibit the political sentiments of Mr. Van Buren, together with such details of his personal history, as may be published with a due respect for private feelings. In doing this, it has not been the design of the writer merely to contribute to the political elevation of any man: he has aimed,

rather to display the spirit and principles of the republican party in this country, and to exhibit by the history of an individual, the nature of the relation which that party sustains to its public men. He has endeavored in this way, to throw some light upon the character of our institutions, and to illustrate, in some degree the spirit of the nation and the age.

The philosophy of history is more valuable than its facts. Remarkable, as are the incidents in the life of Mr. Van Buren, they would not have attracted the particular attention of the writer if he had not believed, that in laying them before the public, an opportunity would be furnished of discussing political principles which are of vital importance to the prosperity of our country. The author, therefore, has no where in the following pages, affected to conceal his strong political bias ; though he has conscientiously endeavored, never to be led by it, into the suppression or misrepresentation of facts. If the conclusions which the writer has drawn from those facts, be not approved of by the reader, he is at liberty to form his own ; the means of forming them have been faithfully laid before him.

As the author has had recourse only to sources of information which are accessible to all, he has not thought it necessary to consult Mr. Van Buren with regard to the propriety of his undertaking. That gentleman, therefore is not, in any sense, responsible for the opinions advanced in the present work, except such as are fairly expressed by extracts from his own writings and speeches.

The great obligations of the present writer to the Honorable Benjamin F. Butler, will be obvious to all who have noticed the ability and zeal, with which he has, on several occasions, defended the character of his distinguished friend. Among those who have kindly facilitated the collection of materials for this work, the Honorable James Vanderpoel, of Albany, deserves the particular thanks of the author.

In submitting to the public, this contribution to the support of democratic principles, the author is well aware that he shall not escape the censure of those, who anticipate the destruction of all political and religious truth, by the leveling spirit of democracy. Without questioning the sincerity of their melancholy forebodings, he would adopt in reply, the language ascribed to an eminent

statesman and philosopher of the present age :*—
“If by democracy, you understand that progress of industry, art, law, manners, and light, which has now for some centuries, been constantly increasing, I am well pleased with such democracy ; and, for my own part, instead of blaspheming the age in which I live, I feel grateful to Providence for having assigned my birth to an epoch, in which God has been pleased to call a greater number of his creatures than heretofore, to a participation in the virtues, the intelligence, and the manners, which had been heretofore reserved but for a few.”

* M. Roger Collard.

L I F E

O F

M A R T I N V A N B U R E N .

L I F E
OF
MARTIN VAN BUREN.

CHAPTER I.

*The parentage of Mr. Van Buren, and his education
preparatory to the study of law.*

MARTIN VAN BUREN, Vice-President of the United States, is not indebted for his eminence to the wealth or distinction of his family. His father, Abraham Van Buren, was a farmer of moderate estate, in the town of Kinderhook, county of Columbia, and state of New-York. He was descended from one of those families, who, at an early period in the history of this country, emigrated from Holland and settled in the ancient town of Kinderhook. He is represented to have been an upright, amiable, and intelligent man, of strong common sense, and distinguished for his pacific disposition.

The maiden name of the mother of Mr. Van Buren was *Hoes*; she also was of Dutch descent. The name was originally *Goes*, and will be recognized as a name of distinction, by those who are familiar with the history of the Netherlands. She was twice married. The name of her first husband was Van Alen, a gentleman of respectability, by whom she had two sons and a daughter, all of whom are now dead. James I. Van Alen, one of the sons, it is proper to allude to, in connection with the subject of this narrative. He was a member of the convention to amend the constitution of the state of New York, in 1802, was afterwards Surrogate of the county of Columbia, and was elected a member of congress in 1808. He was afterwards a judge of the county court, and again Surrogate of the county at the time of his decease. He assisted and encouraged his younger half-brother, the subject of this memoir, during his preparatory studies; and at his entrance to the bar, received him into partnership in the practice of law.

The mother of Mr. Van Buren was distantly connected with the family of his father before their marriage. She is said, by all who knew her, to have been distinguished for her amiable disposition, her exemplary piety, and more than ordinary sagacity.*

* This lady survived until 1818; the father of Mr. Van Buren died in 1814. Both lived to see the brilliant success of their son at the bar, and the commencement of his political distinction.

MARTIN VAN BUREN is the eldest son of these parents. He was born at Kinderhook, on the 5th day of December, 1782.

At an early age he exhibited indications of a superior understanding. His opportunities for early instruction were limited, probably on account of the moderate property of his father, who had two other sons and two daughters.*

After acquiring the rudiments of an English education, he became a student in the academy, in his native village. He there made considerable progress in the various branches of English literature, and gained some knowledge of Latin. It may be inferred, however, that all these acquisitions were not great in amount, as he left the academy, when but fourteen years of age, to begin the study of his profession.

At that early period he evinced a strong passion for extempore speaking and literary composition. The native characteristics of his mind, which have since so much distinguished their possessor, began thus early to display their activity. The declamation of the school-boy was destined to ripen into the manly eloquence of the advocate and statesman, and his youthful facility in composition, to be formed into a compact, vigorous and copious style.

*These are still living, viz. Lawrence, a farmer, residing on the family estate, in Kinderhook; Abraham, a Lawyer, in Hudson, and Surrogate of Columbia County; and two daughters, one of whom is married to Barent Hoes, Esq. brother of the late wife of Mr. Van Buren.

Even at that early age, too, Mr. Van Buren is represented by those who knew him, to have had a spirit of observation, with regard to public events and the personal dispositions and characters of those around him, which gave an earnest of his future proficiency in the science of politics and of the human heart. He was not wont to receive opinions upon mere authority. Every proposition was examined before it received his concurrence or dissent. A fondness for argumentative discussion also appeared ; a native element in his character, which was afterwards formed by discipline and reflection into the habit of vigorous and clear reasoning, which characterized his ripper years.

Such was the preparation with which Martin Van Buren, at the age of fourteen, commenced the study of the Law. What an encouraging example does his subsequent success present to the young men of our country ! Few are denied advantages of education fully equal to those which he possessed.

It is an interesting matter of speculation to conjecture what would have been the effect of a regular education, so called, upon the mind of the subject of this memoir. He has shown himself to be a profound reasoner, at least in his profession, yet he probably knew little, in early life, of the rules of logic or of the metaphysical disquisitions which have professed to teach the art of thinking, from the days of Thales to those of Thomas

Brown. He evinces freedom, accuracy and copiousness in the use of language, yet he had, as we have seen, but a slight acquaintance with any of the languages of antiquity. He has acquired habits of patient and accurate research, but not from the diagrams of Euclid, or the mystic steps of analytic mathematics.


Such examples of distinguished success ought, perhaps, to excite some more thorough inquiry into the usefulness, in all cases, of our ordinary routine of studies. The theory is, that a well balanced mind is the end to be attained. Hence exercises are prescribed in literature and science, in languages and mathematics, in such just proportions as to develop the several mental faculties in equal degrees, in every department. But is there no danger, in this process, of reducing all these faculties to a contemptible mediocrity?

Some persons possess, beyond a doubt, strong natural aptitudes to excel in certain departments and great natural inability to reach even moderate excellence in others. Ought not a true system of education to turn the peculiar powers of the pupil to the best account and to waste no time in attempting to render him a proficient in those branches of science, literature or art, for which he has neither capacity nor inclination? If so, is not that system of questionable utility which forces every student, at an uniform pace, through the same round of mathematical and classical disci-

pline, without reference to the peculiar tendencies of his native talents ?

Again, in most of our higher seminaries the same course of instruction, the same text-books, the same principles in literature, science and the arts, are presented, year after year, to successive generations. It is not unreasonable to suppose that young minds, thus moulded upon a uniform system, will generally fall into common and uniform habits of thought, and will be led to reason, believe and act, precisely as their fathers and teachers have reasoned and believed before them. The strong tendency of the system is to repress inquiry and original investigation, to eradicate every idiosyncrasy of intellect, and merely to infuse into a passive mind, the views which have been passively received by those who teach them.

To this kind of discipline Martin Van Buren was never subjected : whether to his advantage or loss can only be a matter of conjecture. To regret the deficiencies of his early education may perhaps be a useless waste of feeling. No one can precisely demonstrate the influence of collegiate training upon his peculiar intellectual powers. In the study of books, he might, perhaps, have been withdrawn from the study of men, which he has pursued with such eminent success. The rules of logic might have been manacles upon a mind that resisted all artificial restraint. From the eloquent pages of Livy, or the honied eulogiums of Virgil, or the servile adulation of Horace, he



might have been inspired with an admiration for regal pomp and aristocratic dignity, uncongenial to the native independence of his mind. From the same fascinating pages, he might have imbibed that contempt for plebeians and common people which is so bitterly expressed in every line of their eloquent productions. Unless, indeed, the spirit-stirring appeals, put by the father of Roman history, in the mouths of his popular leaders, had kindled his instinctive love of justice and freedom into new activity; or the sarcastic vigor with which the philosophic Tacitus depicts the brutal tyranny of the Roman Emperors, had created in his bosom a fixed hatred of tyranny in every shape.

It is the manner in which ancient history is presented, and not its materials, which leads to the formation of erroneous views of human rights. It needs to be re-written by a republican pen. When that shall have been done with fidelity and independence, ancient history will be a most useful study for the young American. The republics of Greece, as they are miscalled, will then no longer be cited as examples of the failure of systems of political equality. The enormous evils which spring from inequalities of rank, influence and wealth, will be made to appear in every era. The Gracchi and other champions of popular rights will be relieved from the unjust reproaches which have been heaped upon the lovers of their fellow men from that day to this; and a full vindication will appear of that much talked of Agra-

rian law, which, through the perversions of servile historians, has been made a term of reproach and a bye-word of infamy, to frighten reformers withal, for more than two thousand years.*

The example of Mr. Van Buren, is dwelt upon more at length, in this connection, for the encouragement of the youth of our country who may believe themselves to be cut off by their poverty from aspiring to distinction. So numerous are the instances of success in public life, attained by men of imperfect education, as to raise a doubt whether, after all, their exclusion from a regular routine of study may not have been, in some respects, a benefit. Many instances of this kind appear in the brief history of our country. The names of Patrick Henry and Franklin will occur to every one, and the early education of Washington himself was by no means complete.

At the present moment, the facilities for self education are so great that no person who can read, is of necessity cut off from them. Text books in every department of science and art may be procured at a trifling expense, and if the want of a teacher renders the progress of the pupil more difficult and slow, it fixes the knowledge he may acquire, more permanently in his memory.

It is erroneous to suppose that a knowledge of

* Some of the most eloquent defenses of popular rights anywhere extant, are to be found in the speeches ascribed to popular leaders, by Livy. See for example the harangue of Canulejus the Tribune, in the 4th book, and 3d section of Livy's history.

the ancient languages is indispensable to the highest degree of excellence in writing and public speaking. This opinion may be regarded as literary heresy, but it is fully shown to be true by numerous examples. Washington and Franklin are perspicuous, elegant, and, generally, correct in their use of the English language. What orators have surpassed Patrick Henry and William Pinckney? Yet the former never studied the ancient languages at all, and the latter only obtained an imperfect knowledge of latin, in the fortieth year of his age.

The subject of the present memoir may be adduced as an example of eminent success, both in public speaking and composition, without the aid of a classical education.

These remarks are not made to disparage the value of classical learning, but to encourage those who may not be able to acquire it, nevertheless, to pursue the best means of improvement in their power, which means will generally be adequate to their real wants.

The improvements which are supposed to have been made in the modes of instructing the young are the boast of the present age. The advantages to be derived from infant schools, Sunday schools, lyceums, gymnasiums and other new systems of teaching are extolled with so much zeal, as to awaken a regret in men of middle age, that their own entrance upon life took place before these novel aids to wisdom were available. But

it is a matter of reasonable doubt whether much is gained, after all, in the business of instruction by these modern, labor-saving machines. It is an undeniable fact that the seeds of wisdom and morality may best be sown in the family circle. Nothing can supply the place of parental advice and example. When children are assembled at the family board, to hear the maxims of piety, industry, economy and patriotism which experience has taught their fathers, they are enjoying the disciplinary instruction which nature intended for them, and which can never be imparted by any public and stipendiary teacher.

The social affections require exercise for their full development : they are most perfectly trained and cherished at the paternal fire-side. The command of the passions, discretion, and above all, conscientious morality are imperfectly taught in all public seminaries. The proper teacher is the parent ; the proper school, home.

It is a matter of reasonable concern that these principles are so widely departed from, at present, in this country. Mere infants are withdrawn from maternal care and sent to schools, by parents who have leisure and ability to instruct them at home. At a riper age, they are disposed of in literary seminaries, and are thus withdrawn, in a great measure, from the personal instruction of their parents, who are too much engrossed in the various pursuits of life to conduct the education of their children or aid in the formation of their charac-

ters. As if any higher duty could devolve upon parents than the instruction of those they have brought into existence ! or any higher honor could be attained, than the presenting their country with an intelligent and well disposed family ! How true is the remark of a great philosopher of antiquity that "men ought either not to beget children or else, properly to educate them."*

If these principles be correct, it may, after all, be a matter of no regret that the native talents of the subject of this memoir were not subjected to the ordinary methods of discipline, and that his youthful mind and feelings were formed under the paternal roof, by the sound sense of a wise father and the pious care of a discreet mother. Perhaps to this very cause he may in no small degree be indebted for his extraordinary command over his temper on all occasions, his strong attachment to his early friends, and his amiable social qualities ; as well as for the benevolence of his disposition, the amenity of his manners and the blameless purity of his moral character.

* Socrates, in the Crito of Plato, Chapter 5th.

CHAPTER II.

*The professional education of Mr. Van Buren before
his admission to the Bar.*


In the year 1796, at the age of fourteen, Mr. Van Buren commenced the study of the Law, in the office of Francis Sylvester, Esq., a respectable Lawyer, then and still, a resident in Kinderhook. The courts of Law in the state of New York, have adhered more closely to the English forms of practice than has been done in most of the other states. Hence the proceedings are technical, diffuse, and sometimes tedious. The first business of a candidate for admission to the bar, is to become familiar with these forms; and the earlier portions of his preparatory discipline are more usually devoted to the drawing of declarations, petitions in Chancery, answers and other technical pleadings, than to the study of the elementary writers upon law. The preparation of these forms, however, requires

attention and care, and often involves the exercise of nice discrimination and sound logic.

The period of study preparatory to admission to the bar was seven years, for candidates, who like the subject of this memoir, had not the benefit of a collegiate education. This period was meant to be large enough to afford time, not only to become a proficient in the technical parts of the profession, but to lay a thorough foundation for legal science by the perusal of elementary writers, and leave leisure for considerable attention to general literature.

There was at the time now alluded to, another school of discipline for the student of law, in the state of New York, in some measure peculiar to that state. The jurisdiction of Justices of the Peace, in civil cases, extended to questions involving a considerable amount of property; and the parties, in almost every case, had a right of trial by jury. The management of cases in these popular courts not unfrequently devolved upon students at law, and was, in some respects, an admirable arena for the display of their knowledge and the discipline of their talents. The legal forms in these cases were generally very simple, and the legal questions involved, usually, not profound; but the facts put in issue were numerous and exciting to the parties, whose passions were as frequently the cause of litigation as any infringement of important rights.

These trials, therefore, formed an admirable



exercise for the ingenuity and industry of the neophyte lawyer. He could there exercise his ingenuity in the clear and legal statement of facts, derived from the passionate and confused narration of clients; in the preparation and examination of witnesses; in that keen encounter of judgment, acuteness and wit, so observable at the bar; and in placing the whole case favorably before a jury.

At the period when Mr. Van Buren was engaged in his legal studies, Columbia County was not distinguished for its freedom from litigation. Many legal principles, affecting real and personal property, were not as well settled by judicial decisions as they are at the present day. Many new interests were starting into existence and novel questions of personal rights not unfrequently arose. From a state of penury and suffering, the community had advanced into a condition of comparative affluence and ease; and being relieved from their serious evils had leisure to litigate and discuss matters of minor importance.

It will be doing no injustice to the Lawyers of that day to say, that the humbler members of the profession were themselves less competent to advise, in legal matters, than attorneys of the same comparative standing at this time. Party politics moreover, raged violently, and frequently disturbed the peaceful relations of neighbors whose real interests were not in conflict with each other. In short, whatever, may have been the cause, all tradition unites in establishing the fact, that the village

of Kinderhook with its immediate vicinity, was the theatre of incessant litigation and judicial combat, especially in the local courts.

The early indications of ability, as a speaker and reasoner, which were exhibited by Mr. Van Buren, occasioned his almost incessant employment in trials of the kind we have described, from the earliest period of commencing the study of his profession. His father was a firm whig in the Revolution and a democrat in the days of John Adams; and the son was educated in the same principles and of course formed his most intimate connections with persons of the same political faith. The democratic party were then a small minority in the town and county of his nativity. His political opinions, as well as the display of more than ordinary talent, led to his employment by the members of his own party, in their controversies with regard to personal rights and rights of property. At this early period, they appreciated the value of his industry, perseverance, and fidelity in the cause of his friends, and looked forward to the period in which they should possess, in him, a champion of their legal rights in the highest courts of law and of their political opinions in the public councils.

In these local and temporary contests, so well suited to the development of native talent, Mr. Van Buren was laboriously and zealously engaged, during the whole period of his preparation for the bar. It often happened, moreover, that in the

management of cases he encountered men of age, talent, and high standing in the profession. It cannot be doubted that the utmost stretch of his exertions, which such occasions called forth, contributed, greatly, to the thorough discipline and development of his native powers of mind. ✓

Many characteristic anecdotes are related of his successful efforts, at this early age, which might fitly occupy a portion of this memoir were it not destined rather for instruction than amusement. One remarkable display of his powers is often alluded to, by gentlemen who then resided in that vicinity, when the young advocate, not yet sixteen years of age, successfully managed a cause of great interest and considerable importance, against an opponent who was then in full practice at the bar, and has since filled several, responsible, public offices. The future statesman was then so small of stature that he was placed upon a table to address the jury.

At this early period Mr. Van Buren was an ardent and active politician. His political course will be more fully developed in another place ; but it is proper to remark at this point, that it was his constant habit to attend all meetings of the democratic party, to study with attention the political intelligence of the day, and to yield his most zealous aid to the principles he held to be true, both by speaking in public and employing his ready pen to furnish resolutions and addresses whenever his services were required. As early

as 1800, when only in his eighteenth year, and still a student at law, he was deputed by the Republicans in his native town to attend a convention of delegates from Columbia and Rensselaer counties, to nominate a candidate for representative to the State Legislature. From that time onward, during his minority, he constantly had similar marks of the confidence of his political friends and exhibited similar activity in their behalf.

The last year of Mr. Van Buren's preparatory studies was passed in the city of New York, in the office of Mr. William P. Van Ness and under his direction. Mr. Van Ness was a native of Columbia County, but at that time, a distinguished member of the bar in the city of New York and a very conspicuous leader of the Republican party. The reputation which Mr. Van Buren had acquired in his native county, both as a politician and an advocate, secured for him the especial interest and attention of Mr. Van Ness. Thus, he had every possible advantage for improvement; and his eager thirst for knowledge, together with his aptitude in acquiring it, enabled him to make great advances. During this period, his devotion to the study of the principles of his profession, was intense. In an association of young gentlemen engaged in similar pursuits, which occasionally met for the discussion of legal, political and miscellaneous questions, he soon became conspicuous by his ready command of language and closeness of reasoning. Some elder members of the profession who occasionally

attended these discussions, at that time, foresaw and predicted his future eminence at the bar.

Mr. Van Ness, as a leading republican in the city of New York, was occasionally associated with the celebrated Aaron Burr, at that time Vice President of the United States. Through this medium Mr. Van Buren was introduced to the notice of the Vice President. As Col. Burr, not improbably, foresaw the possibility of his becoming a candidate for the office of Governor in the state of New York, he was led by his knowledge of Mr. Van Buren's political activity and influence in his native county, as well as by a quick sighted observation of the future eminence promised by his early display of talent, to treat him with marked attention and to make every reasonable effort to secure his favorable regard.

In November, 1803, in the twenty-first year of his age, Mr. Van Buren was admitted, as an attorney at law, to the bar of the Supreme Court in the state of New York. He immediately returned to his native village to commence the practice of his profession.

CHAPTER III

Mr. Van Buren's professional career, in Kinderhook, from the period of his admission to the Bar, in 1803, to his removal to the city of Hudson, in 1808.

Near the close of his twenty-first year, the subject of this memoir began the practice of his profession, as an attorney at law, in the village of Kinderhook. He formed a partnership in business with the Hon. James I. Van Alen, a half-brother on his mother's side. Mr. Van Alen was considerably his senior and had already acquired no small degree of political and professional distinction. His early kindness to the subject of this memoir has already been alluded to.

Mr. Van Buren had previously been admitted as an attorney in the Supreme Court, and at the first succeeding session of the Columbia County Court, he was enrolled in the list of its attorneys and counsellors.

The bar of Columbia County, at that time, embraced some of the most distinguished members of the legal profession in the state of New York. It will not be invidious to mention the names of William W. Van Ness, (afterwards a Judge of the Supreme Court in New York,) Elisha Williams, Thomas P. Grosvenor and Jacob R. Van Rensselaer. Many other distinguished names might be added to the list, but the gentlemen already mentioned were at that time in the full practice of their profession and for legal knowledge and splendid talents were surpassed by few lawyers in the state.

Such was the field of competition upon which the youthful candidate then entered. But in order fully to understand the difficulties with which he contended and the circumstances which contributed to the formation of his character and fame, it will be necessary to advert to the state of political parties at the period alluded to; for the political and professional acts of Mr. Van Buren have been so closely interwoven, from his first entrance upon the duties of active life, that the description of the one class cannot well be separated from that of the other.

It is not the object of the present writer to present a political history of the times, any farther than may be necessary to the clear elucidation of the principles and character of the subject of this narrative. It has been truly said by a writer of great celebrity in the departments both of biogra-

phy and history, that "the biographer never ought to introduce public events, except as far as they are absolutely necessary to the illustration of character; and that the historian should rarely digress into biographical particulars, except as far as they contribute to the clearness of his narrative of political occurrences." * But as the political course of Mr. Van Buren, appears to the writer to present a pure and attractive example for the imitation of the young men of our country, it would seem that an account of his life and opinions, should, in some measure, be a text book of democratic principles.

It is well known that the people of these states have always been divided into two broadly separated and distinctly marked parties. One of these parties has been the constant antagonist of popular influence, equality and freedom; the other has constantly relied on the capacity of the people for self-government and has, at all times, regarded their voice as the ultimate rule of action in all political matters. A writer of considerable research, and of high authority where he is not under the bias of party prejudice, has intimated that this great division began at the time of the adoption of the Federal Constitution;† but this, perhaps, is not the most accurate view of the origin of these parties.

* Life of Sir Thomas More, by Sir James Mackintosh.

† Pitkin's political and civil History of the United States, Vol. II., p. 352.

A closer observation will show that the elements of this division existed anterior to the Revolution. Indeed these elements are inherent in the nature of man, and have separated mankind, in all countries and in all ages, into the lovers and champions of popular rights on one side, and the oppressors of their fellow-men, on the other. But in the present place, it is purposed to consider rather the historical, than the philosophical origin of these parties.

During the whole period of British aggression and American suffering, a strong party existed in this country, averse to any demonstrations of resistance to England or any exertions for the protection of colonial freedom. The popular voice was divided in regard to public measures, from the operation of various motives. Some of those who were for passive submission, feared English power; others loved English patronage; and all distrusted the *capacity of a free people to govern themselves*.


The same division was perceptible during the war of the Revolution; though the violence of the enemy forced into the popular ranks, for a time, many who were at heart averse to a republican form of government. Many of the colonists had been educated in Europe, others had family connections there, and a still larger number had, by reading or travel, formed high notions of the much-lauded excellence of the British Constitution. These persons would gladly have preserved in

America, many features of an aristocratic government, and they saw with alarm and regret the unparalleled determination of the American people, never to cease from the contest until they had prostrated every vestige of authority, proceeding from any other source than the will of the people.

Before the disbanding of the American army, it is pretty well understood, that two of the general officers, who stood high in its affections, proposed, very distinctly, to General Washington to assume monarchical powers, and promised to sustain him by the armies under their control. Fortunately for the cause of freedom, that great and good man was equally incapable of being influenced by personal ambition, and of distrusting the ability of freemen to govern themselves.

It would not be difficult to point out frequent indications, on the part of leading politicians, of a preference for monarchical institutions and of a distrust of popular discretion, during the period which intervened between the termination of the war of the Revolution and the adoption of the Federal Constitution. The country was then divided into two distinct parties, the republicans and monarchists, the former insisting on the utmost liberty of action, consistent with the preservation of social rights, and the latter struggling to curtail popular rights, and looking to a monarchy and an hereditary nobility as the only protections of individual interests.

But it was in the convention which formed the Federal Constitution that the monarchical party made the most distinct demonstration of their views. The convention sat with closed doors, and few of the opinions expressed by individual members have been preserved. There is no reason to doubt, however, that there were members of the assembly who would have been gratified with the nearest possible approach of our government to that of Great Britain. But the popular will had been so decidedly expressed, as to show the impossibility of indulging such preferences. Propositions were, nevertheless, made, and that too, by men who were afterwards the leaders of the Federal party, to elect a President and Senate for life, or during good behavior, to have the Governors of the respective states appointed by the Executive of the Federal Government, and to give that government a veto upon all the acts of the State Legislatures. Fortunately these propositions were rejected by the democratic part of the convention, and the Constitution, as finally adopted, took so popular a form as to be highly offensive to many of the anti-republican members. Nevertheless, such alarming indications appeared, in certain quarters, of a preference for a consolidated and privileged government, that the democracy of the country were exceedingly cautious in yielding their final assent to the new instrument, nor was their jealousy of its provisions allayed, until after the adoption of several important amendments,



securing to the people certain cardinal rights of freemen, and tending to the unimpaired preservation of the sovereignty of the states.

Even after the adoption of the Federal constitution, there was a body of politicians, and those too of no humble influence and character, who had no faith or pleasure in the idea of a republic, who longed for a monarchical form of government, and who openly spoke of our system as a *humbug* which could not last a quarter of a century, while they professed to regard the British government as the most perfect, ever invented by human wisdom.*

During the administration of General Washington, the peculiar and opposite views of the two parties became more apparent; and the distinctive features of each, at that time, have continued to characterize them, respectively, to the present day. Names indeed, have changed; and a vocabulary of considerable extent, has been exhausted on one side, in the vain endeavor to hide real principles from public view. But at whatever era, or under whatever name, the aristocratic party have appeared, they have exhibited the same aversion to the full enjoyment of popular rights, the same distrust of popular capacity and integrity, and the same dread of popular freedom.

In the administration of Washington, when Hamilton presided over the Treasury department

* Jefferson's Works Vol. IV. page 450 et seq.

and Knox was secretary of War, the doctrines of the anti-republican party were similar to those of the same party, at the present day. They were for a splendid, consolidated government, supported by a national Bank and revolving about an intriguing and corrupting treasury. Large salaries, permanence in office, pomp, profusion, and ceremony were, then, as now, earnestly contended for. The constant cry was of danger from the people,—of popular effervescence and popular power, and unless the democracy of these states had rallied, under Jefferson, and brought back the constitution to its original simplicity and purity, we might, ere this, have seen Presidents and Senators and, perhaps, Representatives in Congress, quietly seated in their offices for life, and transmitting their stations, their titles and their fortunes, to a promising race of their legitimate descendants.

At that early period, too, the leading doctrines of the democratic party were nearly the same as are professed by that party at the present day. A perfect equality of political rights; the sovereignty of the State Governments; a strict construction of the constitution; no privileges to particular sections of the country or to particular classes of the community; no monopolies, trading companies, or corrupt governmental Banks; frequent rotation, strict responsibility and small parade in office; moderate legislation; a revenue meeting the wants of the people and no more; simplicity in the laws; and the least possible re-

straint upon the mind, person, energy and industry of every man, consistent with the rights of his fellow-man.

The distinctive features of each party have remained nearly the same, down to the present day. On one side, there has been seen the scheme of a splendid, national, consolidated Government, a single department of which, it has been claimed, may control a sovereign state and remove even felons from the cells of her penitentiaries; an overgrown, national Bank, its head reaching to the highest offices in the government, its members extended to every state, its right hand raised to depose the President of the people, its breath spreading dismay throughout the land, its operations extensive, secret and corrupt, its resources unlimited and its continuance, perpetual; a system of raising revenue vastly disproportioned to the wants of the government, to be lavished in magnificent roads, through favored sections of the country, or invested in joint-stock speculations; a latitudinarian construction of the Federal compact, begetting the exercise of powers which endanger the continuance of the Union; a practical avowal of the principle that a national debt is a national blessing; a disposition to legislate over-much, and to tamper, capriciously, with the interests of the people; a general disregard of the popular voice and distrust of the popular capacity, leading to the crooked policy of attempting to cheat the people into salutary measures,

thus rendering office-holders, not their *servants*, but their *masters*.

On the contrary, the democratic party set out with the cardinal principle that might and right belong, equally and exclusively, to the people; that in them resides all sovereignty; that there is no power on earth which may rightfully subject them to any laws or restraints, of body or mind, which they choose not to adopt for themselves; that government is for their own comfort and protection, and not for the especial benefit of the governors; that magistrates are *servants* and office holders *agents*, whom the people create and may at pleasure, control or remove; that the unimpaired sovereignties of the several states are vastly more essential to liberty than any other feature of our political system; that the National Government possesses no inherent powers, but is authorized to act only so far as the spirit and letter of the constitution clearly intend; that no revenue should be raised beyond the wants of the government; that the Federal Government was intended mainly for the regulation of foreign relations and cannot constitutionally expend large sums of money in domestic, local, internal improvements and splendid plans of national embellishment and speculation; that, inasmuch as a national Bank is not expressly authorized by the constitution, and the right of creating one has always been questioned by sound politicians, no such institution should be established without further authority from the people, whatever advantages

may be claimed for it; that the several departments of the Federal Government are co-ordinate and equal in their respective spheres, and that each is bound to interpret and execute its functions and duties, on its own responsibility and by its own lights.

These are some of the principles of the democratic party at the present time. They are, no doubt, held with various modifications, by different members of the party; but they all aim at removing every burden and restriction upon the natural freedom of man, to the utmost extent which is consistent with the preservation of social order. They are based upon the fundamental axiom that the great mass of the American people are honest and are capable of self government; and that, admitting their liability to mistakes and to occasional perversions of right, yet the liberties of the people may more safely be entrusted with themselves, than with any of those zealous patriots who are ready, from pure benevolence, to govern them.

Between the two parties, whose antagonist principles have been briefly stated, the community have ever been divided according to their natural dispositions, their early education, their personal interests or the dictates of their judgment. Among the leaders of the anti-democratic party have generally been found those persons who were born to the inheritance of large estates, who have passed through the training of a regular collegiate education, and have any claims to distinction on the

score of ancestry. Their distrust of popular capacity and integrity may generally be traced to the tenor of their early education, by which they have been so far withdrawn from the necessity of manual labor and from contact with those who live by it, as to form erroneous notions of their capacity and an ill founded distrust of their virtue. The educated sons of opulent and distinguished parents very naturally come to regard themselves as the natural inheritors of the honors of their family and are easily disposed to claim priority in political promotion, over the undistinguished and the poor. Not unfrequently, the course of education through which they pass is fitted to inspire an admiration for the glare of aristocratic pomp in foreign countries and in ancient times. They read of the Roman "plebeians" and the English "mob" and are prone to regard the common people of their own country in the same contemptuous estimation. As they advance in life, they soon begin to feel that entire equality in civil and political rights, is a principle not altogether consistent with their own estimate of themselves and of those around them. They begin to regard those who are not their equals in wealth, family and education, as inferiors, also, in political rights. Having never freely mingled with the mass of their fellow men, they under-rate their capacity and virtue. They forget that integrity of character and true patriotism are more frequently imbibed from the parental



and domestic education of the farmer or mechanic, than in public seminaries of learning. They forget that learning is not always wisdom ; that a full scholar may be a shallow thinker ; and that books, teachers, apparatus and the other instruments of learning are not the bestowers of a sound judgment or a clear head. These are, indeed, great helps to mental discipline and the acquisition of knowledge ; but some of the strongest minds that ever appeared have been formed without them. Patient reflection may proceed as rapidly and steadily, over the desk of the merchant, the bench of the mechanic, the anvil of the smith, or at the hearth of the farmer, as amid the splendid halls of learning or in the cloisters of the man of science. There is less difference between men of reflection and native judgment than is generally imagined ; how different soever may have been their means of education or their conditions in life. The principles which lie at the basis of true science, both in morals and politics, are simple, and may generally be as clearly comprehended by the man of plain, uneducated common sense, as by the scholar whose mind has been trained by artificial modes of reasoning. The latter has greatly the advantage of the former in the facility with which his literary resources enable him to express, illustrate and enforce his sentiments. But the uneducated man may, nevertheless, be a profound thinker, though destitute of the technical rules

which are convenient for the clear expression of the grounds of his opinions.*

The truth is, the principles of political and moral science are not so profound and abstruse that only a select few, of striking genius and great learning, can possibly comprehend them. If it were so, there would be an end of all freedom in the political world, and of all independence of judgment in the moral and religious world. If the principles of politics are beyond the apprehension of mankind at large, government must, of necessity, be taken from their control and committed to the direction of the few who have the requisite learning and capacity. If the principles of moral and religious truth are equally obscure, then must the right of private judgment in these matters, cease to be exercised, and the mass of mankind must receive their religious belief and their rules of action from a controlling priesthood. But in matters of religious belief and practice, the competency of every moral agent to form his individual opinions, and his responsibility for his faith and practice are no longer a matter of dispute. The

* "No epoch of humanity, not even a single individual, whether the first or the last, has ever been cut off from the inheritance of truth. * * * A peasant, the meanest of peasants, knows as much as Leibnitz, about himself, about the world and God, and about their relations; but he does not possess the secret and the complete explication of his knowledge; he knows not how to account for it: he possesses it, but he does not possess it in that superior form of thought, which we call philosophy." *Cousin's Introduction to the History of Philosophy: Lecture II.*




Christian religion is characterized by such plainness and simplicity that its doctrines and precepts are within the apprehension of the most common understanding ; nor can any person, be relieved by the interposition of any human expositor from the responsibility of examining and believing for himself.

The same course of reasoning applies to political knowledge. The true principles of government must be within the apprehension of ordinary men or the great mass of mankind must be excluded from the exercise of self-control. If it be the law of our nature that men shall form their own civil institutions, it must be upon principles which men can understand. If social institutions cannot be founded and maintained on such principles, they must be formed exclusively by the few who can understand them, and the only duty of the great body of mankind, must be submission. If these principles are correct, the mystery and obscurity which sometimes surround law-making and civil government are the result either of ignorance or imposition, and ought to be dissipated.

Hence the opponents of democratic power fall, at once, into a two fold error. They ascribe an undue degree of intricacy to the science of politics, and at the same time, underrate the capacity of the great mass of their fellow-men. From these errors of opinion flow the most unhappy consequences. They who entertain them are engaged in a constant endeavor to curb the popular influ-

ence and withdraw all political power, as far as possible, from the people. Borrowing their notions of political science from foreign governments, they constantly lose sight of the cardinal principle that all power, here, belongs to the people. Forgetting that the people are the lawful sovereigns of this realm and that law-makers and office-holders are their agents and servants, invested with temporary duties for the execution of which they are responsible to the people as their masters and are rewarded by them, these men who are rather educated in the principles of foreign governments than of our own, constantly aim to assert for themselves a supremacy of the same kind as that which men of rank, wealth and education are entitled to, in a different organization of society. Accustomed to estimate themselves as much above their fellow-men in political advantages, as they, often, really are in wealth and education, they look upon the claim of the common people to equal rights and legitimate supremacy, as an encroachment upon their own peculiar privileges. They regard the struggles of the democracy as attempts to strip them of a just superiority. The real tendency of those struggles, they readily perceive, is to level and equalize wealth and political power throughout the community; hence they spare no effort in resisting them. It is difficult for men whose minds are thus formed to feel that the undue superfluity of wealth and rank they may chance to obtain, must devolve a corresponding privation upon other men, who, by the laws of nature and the principles



of our government, are, equally with themselves, entitled to the enjoyment of these privileges. They cannot feel that to the truly benevolent mind, the suffering of the undistinguished, poor man seems to be as great an evil as the corresponding distress of the high born and rich.

These are hard lessons for men to learn who are born to the possession of superior, social and intellectual enjoyments, and who forget that the nature of our institutions forbids them from also engrossing political superiority. Stimulated by these false notions of their real position in our republic, men, who in social intercourse evince the most attractive qualities, are led into the most violent political practices. They hesitate not to declaim on the ignorance, degradation, servility, corruption and violence of the *common people—the mob—the radicals—the haters of good order* and breakers down of all useful institutions; the men in short, who dare to believe, with the illustrious Jefferson that one half of mankind are not born with saddles on their backs, to be ridden by the other half. These violent denunciations are heaped, with exaggerated fury, upon any men of education, moral worth and talent, who may espouse the popular cause. Underrating the intelligence of the great body of the democratic party, they erroneously suppose that its strength, in a great measure, depends upon the leaders, and these leaders become the objects of especial attack. Feeling no sympathy, themselves, with the common people, they ascribe the efforts of intelligent

men in the popular cause, to the vilest motives. They charge these men with misleading others whom they only co-operate with, or perhaps, in reality, follow. They ascribe the exertions of the intelligent and able champions of popular rights to demagogueism, thirst for office, inordinate ambition, or moral corruption; for they can never appreciate that truly expansive benevolence which embraces all mankind as brethren. The feeling of sympathy and good will for his fellow men, of all conditions, which is the pervading principle of action with the true philanthropist, finds no place in the breast of the aristocrat. It is supplanted, too often, by fear, jealousy and hate. The aristocrat sees, lurking in every poor man's eye, a design upon his life or property; he regards every man who is beneath his own caste, as under the influence of a demoniacal spirit, which is only kept within bounds, by the restraints of fear and self interest. Hence, he seeks for protection behind the bulwarks of power, rank, title and authority. It is his creed that the common people—the rabble, must be kept under, either by force or corruption; and he solemnly believes that were they let loose upon the world, at large, they would exterminate “the better sort of people”—plunder the rich, reduce all to the common level of poverty, and finally prey with violence upon each other, in the frantic exercise of liberty!

The democratic lover of equal rights looks abroad upon his fellow men with far different eyes. He believes that nature has generally bestowed

upon them benevolent and social feelings. He reads good will and sympathy in their countenances. He discovers in their dispositions, when unperverted by bad education or example, a leaning towards sincerity and truth, and a strong innate love of virtue and justice. He traces their faults and defects to other causes than the hand of nature or of God. Hence, he never fears and hates his fellow-men, but confides in them and loves them. He delights to do them good, to see them equal, free and happy; nor has he any doubt that with proper information, they will generally act, honestly and wisely.—Certainly, if the lover of popular rights and equality errs, his error is on the side of benevolence.

At the time when Mr. Van Buren commenced his professional career, the violence of party spirit was extreme throughout the country. The state of New York was fearfully agitated by its influence; and in the county of Mr. Van Buren's residence political dissensions were carried to the greatest extremities.

The administration of the Federal Government had then passed, after a considerable struggle, into the hands of the democratic party; but it was by no means certain that their ascendancy would be of long continuance. In the state of New York, and in the county of Columbia, the federal party had long held the reins of power by an overwhelming majority. The land-holders in Kinderhook and its vicinity, had inherited large estates from a long line of wealthy ancestors, and

had exercised, by prescription, an influence over their tenants and the more recent immigrants, analagous in its nature, and almost in its extent, to the baronial prerogatives of feudal lords. The great mass of mercantile and professional men in the county, were dependent upon these wealthy free holders for patronage, as also were the laborers and mechanics, in a still greater degree. The members of these families were generally federalists and looked with anxious disapprobation upon any efforts to extend popular rights. Towards the champions of the democracy, they exhibited neither liberality nor toleration, but carried on a warfare against them, both in public and private, of the most obstinate and embittered character.

Mr. Van Buren's early exhibition of energy and talent attracted their attention. It was readily observable that they had much to fear from his exertions if he continued to co-operate with the democracy, and no ordinary pains were taken to detach him from that connection. The respectable gentleman with whom Mr. Van Buren studied his profession was a high-toned federalist. His early patron and partner in business was of the same political faith. These gentlemen, by their example and advice, earnestly endeavored to withdraw him from a political connection which they probably believed to be dangerous and wrong, and which they could not but foresee must bring upon their young friend much persecution and obloquy. Gentlemen of high standing and character, many years his seniors, who were sincerely and ardent-

ly attached to him, made the most strenuous endeavors to induce him to change his political creed. They urged every consideration, flattering to his pride, or which could tempt the ambition of an aspiring youth. They pointed out to him the dangerous tendency of what they called the "jacobinical principles" of the party to which he was attached, and the certain defeat and ruin which awaited them. The result of every interview was a disappointment of their hopes to influence his course, not unmixed with an admiration for the firmness with which he adhered to his principles and the adroitness with which he met their arguments. These attempts were finally abandoned. Firmly fixed by reflection and observation in the political faith of his father, who was a whig in the Revolution, an anti-federalist in 1788, and an early supporter of Jefferson, the subject of this memoir shrunk not from the severe tests which were applied to the strength and integrity of his convictions. Without patronage, comparatively poor, a plebeian by birth, and not furnished with the advantages of a superior education, he refused to worship either at the shrine of wealth or power, but followed the dictates of his native judgment and benevolent feelings, and hesitated not, in behalf of the cause which he thus adopted, to encounter the utmost violence of his political enemies. That violence soon burst upon his head with concentrated fury. His character was traduced, his person ridiculed, his principles branded as infamous, his integrity questioned, and his abilities sneered at,

by those who had recently extolled them. In short, Mr. Van Buren encountered, in the earliest period of his career, an earnest of that malignant and persevering abuse with which he has been incessantly assailed, from that time to the present. But the shafts of malice were aimed at him in vain. His moral character was beyond reproach. His habitual self respect and the pervading decorum of his deportment defied ridicule. His principles were so fortified by truth, as to gain ground amid obloquy and denunciation. His integrity commanded the respect of all candid men. His abilities extorted general admiration.

The ruthless warfare carried on by the exclusive party in this country, against the leaders of the democracy, is well illustrated by the case of Mr. Van Buren, both in its character and its effects. For nearly forty years it has been the constant effort of his political antagonists, in public and private, by the press, by conversation and in set speeches, to lessen his influence with the American people and to impair their confidence in his capacity and honesty. The attempt has proved utterly futile. Indeed, it has indirectly conduced to his elevation, by drawing public attention to his character and subjecting it to a constant scrutiny, well calculated to disclose its excellencies. The example will not be without its influence upon other defenders of the true principles of our government, as it evinces how little these violent attacks deserve to be regarded. The people have already learned that these assaults are generally proportionate in their violence, to the merit of the subject,

and that signal integrity of character in a democrat, is most likely to excite their greatest fury. It is rather a matter of surprise that they who resort to these intemperate measures have not already learned their futility; since the people have, almost uniformly, delighted to honor those who have been most bitterly assailed. Every one will call to mind, in this connection, the father of American democracy, the illustrious Jefferson, and the equally conspicuous example of our present, venerable chief magistrate.

On this subject, as on many others, the cardinal error of the anti-democratic party, is a false estimate of the intellectual capacity of the people. Presuming upon their ignorance and credulity, they employ for purposes of deception, a tone of exaggeration and hyperbole which leads to distrust and defeats its own object. Thus they have lost the popular ear, and their most solemn asseverations have ceased to influence any but weak minds.

Undismayed by persecution, as he had been unmoved by persuasion, Mr. Van Buren steadily acted upon his carefully formed convictions, and vigorously co-operated, on all occasions, with the democratic party. Mild and unobtrusive in his personal deportment, while he never offensively obtruded his sentiments upon others or denounced their opposite opinions, he was ever ready, by argument and illustration, to defend his own tenets and to enforce them in private life or on public occasions.

Thus connected with a party, which, though as yet but a minority, still, embodied a numerous and intelligent portion of the community, he naturally became the vindicator not only of their political faith but of their legal rights. The conspicuous position in which he was thus placed, called into exercise the utmost energy of his mind and the most strenuous exertion of his talents. We have already seen that the weight of legal talent and learning was greatly on the other side. To encounter successfully, in the tribunals of justice, the distinguished antagonists with whom he was thus politically and professionally brought in collision, required the most unremitting industry, the most diligent preparation, and the most vigorous exertion of his powers. The conflicts in which he thus engaged rapidly invigorated and enlarged his natural powers. They quickened his apprehension, strengthened his judgment, added clearness and vigor to his reasoning faculties, and brought into full operation the whole resources of his well endowed mind. It was soon seen that he was able fully to cope with the ablest of his opponents in the local Courts. He soon challenged them to the encounter in a broader field. In February, 1807, he was admitted as a counsellor in the Supreme Court, and thus had opened to his ambition the highest arena of professional competition. Upon this arena he entered with equal eagerness and equal success. He was here brought into more immediate collision with the distinguished men whom years of exertion had raised to the highest professional eminence.

In 1808, the democratic party having gained a temporary ascendancy in the appointing department of the State Government, Mr. Van Buren was appointed Surrogate of Columbia County. In the latter part of this year or the beginning of 1809, he removed from the village of Kinderhook to the city of Hudson, in consequence of the increase of his professional business in the higher Courts. He was thus established in the capital of his native county, with a professional reputation which had already extended far beyond the limits of that county. At this point he may be considered as having entered upon the most brilliant period of his professional career.



CHAPTER IV.

MR. VAN BUREN's professional course from the time of his removal to the city of Hudson, in the winter of 1808-9, until his final withdrawal from the bar, in 1828.

It has already been remarked, that the bar of Columbia County embraced, at the period now spoken of, some of the most distinguished lawyers in the state of New York, or indeed in the United States. After the promotion of William W. Van Ness to the bench of the Supreme Court of the State,* the most eminent in the remaining group was the late Elisha Williams. This gentleman was a resident in the city of Hudson at the time of Mr. Van Buren's removal thither. As a popular speaker, especially, as an advocate before a jury, he was unrivalled in the State of his residence, and probably in the Union. He was an active and ardent politician, and already stood at

* Mr. Van Ness was appointed Judge, in June 1807, in place of Brockholst Livingston, resigned.

the head of the federal party in that region, as Mr. Van Buren did at the head of the democratic cause. Mr. Williams was then in the prime of manhood and in the zenith of his fame, and was little disposed to divide professional pre-eminence with a rival advocate, or to surrender party ascendancy to a political opponent.

With such an antagonist, already in possession of the field, Mr. Van Buren was constrained to measure his abilities. Conspicuous leaders of opposite parties, rivals in personal interests, professional success and political fame, they were prompted to the contest by every motive of interest, duty and ambition. Accordingly the Courts of Columbia county exhibited, during the period alluded to, the most striking displays of forensic talent and the most extraordinary exhibitions of professional zeal and industry, on the part of these conflicting champions. The following felicitous picture of their respective peculiarities is from the pen of a gentleman who was an eye witness of their contests, and who is equally distinguished for his professional eminence and the integrity of his character.*

“Never were two men more dissimilar. Both were eloquent ; but the eloquence of Williams was declamatory and exciting ; that of Van Buren, insinuating and delightful. Williams had the livelier imagination ; Van Buren the sounder judg-

* The Hon. Benjamin F. Butler, Attorney General of the United States.

ment. The former presented the strong points of his case in bolder relief, invested them in a more brilliant coloring, indulged a more unlicensed and magnificent invective, and gave more life and variety to his arguments by his peculiar wit and inimitable humor: but Van Buren was his superior in analyzing, arranging and combining the insulated materials, in comparing and weighing testimony, in unravelling the web of intricate affairs, in eviscerating truth from the mass of diversified and conflicting evidence, in softening the heart and moulding it to his purpose, and in working into the judgments of his hearers the conclusions of his own perspicuous and persuasive reasonings."


The following interesting particulars, from the same authentic source, exhibit the honorable principles by which the competition of these distinguished opponents was controlled.

"Notwithstanding the fierceness of their political collisions, their professional business was conducted in a spirit of unbounded liberality and chivalric confidence. Legal technicalities were entirely disregarded, and every thing that related to the mere form of proceeding was accommodated by each to the wishes and convenience of the other. The tendency of this mode of practice to beget controversy and mistake, even between friends is sufficiently obvious: it is therefore a crowning fact, one that reflects honor not only upon themselves but upon the profession they adorned, that the courts were never troubled with a single special motion growing out of their conduct as practition-

ers ; that no complaint of unfairness attempted, or advantage taken, or courtesy withheld, was ever preferred by either, and that each has since borne ample testimony to the generosity and good faith with which he was treated by his adversary."

The active practice at the bar, in which Mr. Van Buren had been hitherto engaged, had somewhat interfered with the systematic study of his profession. He determined, at this time, to apply himself to legal study with unabating diligence. He had always aspired to the highest distinction at the bar ; and feeling within him not only the desire but the elements of success, he determined not to be deficient in any one quality of a profound and accomplished lawyer. Perhaps too, he was stimulated to greater effort in this direction, by the circumstance that profound legal knowledge was not the peculiar distinction of his great antagonist. Mr. Williams trusted very much to the natural resources of his powerful mind and was led, by the brilliancy of his parts, into some impatience of thorough legal study. He was rather copious and oratorical than closely logical and argumentative. With a jury, few could stand before him ; with the Court, he did not always command equal success.

To this branch of his profession, then, Mr. Van Buren applied himself with the most intense ardor. He purchased a very extensive and well selected library which had been the property of an eminent lawyer, then deceased, and devoted his best energies to a systematic and extended course of reading. But he made no parade of his assiduity ;



indeed his habits were rather fitted to conceal it. During the busy part of the day, he was seen constantly mingling in conversation or engaged in his ordinary business, with those who had occasion to consult him. He mingled with freedom and even with zest, in the social circle and in more formal visiting assemblies; and in the habitual cheerfulness of his manner there was nothing to indicate the severe student. He chose that his industry should rather appear by its proper fruits at the bar, than be indicated by morose infractions of social customs, or the anxious, care worn visage which many put on, as an evidence of severe thought.

But in the stillness of the night, he buried his whole soul in the researches of science. At that propitious season, he knelt at the shrine of that "jealous mistress which allows no rival," and communed with those eloquent oracles of enlightened reason, which are too often allowed to repose in silence on the dusty shelf.

During the seven years he resided at Hudson, by laborious practice in the courts and severe private study, he rapidly advanced towards the highest rank in his profession. In the mean time, his extending practice had conducted him to the higher courts, and to the tribunal of final resort.* He thus was brought in contact with the most eminent members of his profession from every section

* The first appearance of Mr. Van Buren at the bar of the Court of Errors, was at the May term in the city of New York in 1808, in the case of *Wilson and Gibbs vs. Reed*. 3 *Johnson's Reports*, p. 175.

of the state. Few men of his age entered that high arena with equal advantages, either of natural parts or of previous study and discipline. His success was commensurate with his merits and efforts. They who had hitherto known him only through the distorted representations of the party press, were now forced to the formation of a more correct estimate. They felt his powers and dreaded a collision with him. They saw the extent of his legal learning and found their utmost industry taxed to encounter it. Amid the most distinguished talent in the State, his abilities were so conspicuous, and his success so eminent, that in February 1815, the republican party having regained the ascendancy, he was appointed Attorney General of the state. The preceding incumbent was the venerable Abraham Van Vechten, a man eminently distinguished for his professional merit and political influence, and who still survives, the venerated father of the New York bar.

The intellectual character of Mr. Van Buren at this period, is thus forcibly sketched by the same hand that furnished the parallel, before inserted, between him and Mr. Williams.

“Amongst such competitors* it was impossible to acquire, still more so to maintain, a factitious reputation. Mr. Van Buren’s was based on materials the most durable. Gifted with a large share

* Of these competitors it will be sufficient to name Wells and Emmet of New York, and J. V. Henry of Albany: men (now no more) whose professional eminence is familiar to the whole American Bar.

of good sense, with a quickness of apprehension almost intuitive, with a nice discrimination, and with great accuracy of judgment, and illustrating these qualities by powers of reasoning and oratory rarely surpassed, he was peculiarly qualified for the discussion of those varied and complicated questions of law, and of fact, which are so often presented for decision in our higher tribunals. It was accordingly in the management of important cases in the superior courts, that his most successful efforts as an advocate were made.

“Whether before a jury, or the bench, he particularly excelled in the opening of his subject. The facts out of which arose the questions for discussion, the nature of those questions, and the mode in which he intended to treat them, were always stated with great clearness and address. In the exposition of his argument he was usually copious and diffusive, presenting his case in all its lights, and bringing to bear upon it every consideration which could tend to elucidate its merits, or cover its defects. His style and manner were judiciously adapted to the character of his subject, and of his hearers; sometimes direct and argumentative, and at others discursive and impassioned; but even in the management of the most abstruse legal topics, he was able by the perspicuity of his statements, the aptness of his illustrations, the vivacity and force of his tone and gesture, and the felicity of his whole manner, to excite and to retain the undivided attention of all classes of his auditors.

“No one was better qualified to speak with ability and effect, upon little, or without any preparation ; but no one could be more careful or laborious in his preparatory studies. We mention this for the purpose of reminding the junior members of the bar, that if they would emulate and equal the successful career we have delineated, they must rely, not on genius alone, nor on general knowledge, or a diversified experience, but on the surer aids to be derived from a perfect acquaintance with their subject and a careful premeditation of what they are to say.”

In April 1812, Mr. Van Buren had been elected a member of the State Senate from the then Middle District. By this election, which will be more fully noticed in another place, he became a member of the Court for the Revision of Errors. His first sitting as a member of that august body, was at Albany, in March 1813. During that session, he delivered a very learned and elaborate opinion, in the case of *Barry vs. Mandell*, reported in the tenth volume of *Johnson's Reports*, page 575. It will not be proper to embody many of his legal arguments or opinions in the present work ; but the following extract from the case above cited, will show his sentiments at that early period on a topic of great interest, and which has for many years occupied the attention of another eminent statesman, whose name is closely connected, at the present moment, with that of Mr. Van Buren.

“Permit me next, respectfully to examine with what propriety it can be alleged, that escapes of this description

are so far against the policy of the statute, as to render the construction of the Court below, proper and necessary. As it has truly been remarked, 'this Statute was passed for humane purposes;' it was among the first concessions which were made by that inflexible spirit, which has hitherto maintained its hold upon society, authorizing *imprisonment for debt*. Cœval with the authority of imprisonment for debt, have been the exertions of men of intelligence, reflection and philanthropy, to mitigate its rigor; of men who viewed it as a practice fundamentally wrong, a practice which forces their fellow creatures from society, from their friends and their agonized families, into the dreary walls of a prison; which compels them to leave all those fascinating endearments, to become an inmate with vermin; which confines them within the same walls which contain the midnight incendiary and the ruthless assassin; not for crimes which they have committed; not for frauds which they have practised on the credulous and unwary; (for such distinctions are not made;) but for the misfortune of being poor; of being unable to satisfy the all-digesting stomach of some ravenous creditor; of men who looked upon the practice as confounding virtue and vice, and destroying the distinction between guilt and innocence, which should unceasingly be cherished in every well regulated government."

As Mr. Van Buren held the office of Attorney General during a considerable portion of the period that he was a member of the State Senate, his opinions in the Court of Errors are less frequent than they would otherwise, probably, have been.

In 1816, on account of the duties of his office as Attorney General, and the increase of his professional business, he removed from Hudson to Albany. From this time forth, his professional occupations were very pressing and lucrative. His name appears in the Reports of the Supreme Court and Court of Errors, in the State of New York, in a large number of the most important ca-

ses. He became the frequent associate and antagonist of such men as Aaron Burr, Thomas Addis Emmet, John Wells, Samuel Jones, Thomas J. Oakley, J. V. Henry and Abraham Van Vechten;—names familiar to the American people.—For some years preceding his final withdrawal from the bar, his practice, it is believed, was unsurpassed in its extent and responsibility, by that of any lawyer in his native state, and perhaps in the United States. Thus, after nearly twenty years of unremitting industry, the highest wishes of his early life were crowned with complete fruition.—Wealth, influence and fame, were the natural fruits of his successful exertion. His natural talents had reached their full expansion; his laborious industry exhibited its attendant results; and amid a constellation of great minds, whose brilliant efforts erected and adorned the fabric of New York jurisprudence, the vigor of his intellect, and the richness of his learning, won for him a conspicuous and acknowledged eminence.

It is to be regretted that no provision is made, in this country, to preserve the best specimens of forensic eloquence. The arguments of counsel, addressed to the court, are briefly given by reporters, but are seldom interesting to any but professional readers. But the best speeches of every eminent lawyer are addressed to the jury, and these are seldom preserved. It is not known to the writer that any of Mr. Van Buren's speeches before a jury, during his long course of practice, have

been reported. And of his legal arguments, seldom any thing more than a bare statement of the case and a reference to the authorities, is given in the Reports. In the case of Varick against Jackson, which was tried in the Court of Errors, at Albany, in 1828, and is reported by Mr. Wendell, in his second volume, page 166, the argument of Mr. Van Buren on one of the most profound and difficult questions ever brought before that Court, is given somewhat at length, and, as it is said, with great fidelity. It extends through twenty-three pages ; and the professional reader may be referred to it, as a fair specimen of the learning and talent which he brought to the discussion of topics of this nature. Aaron Burr, who was senior counsel on the same side, apparently considering the subject as exhausted, declined making any additional remarks on the main questions in controversy.

In the case of Wilkes vs. Lion, argued before the Court of Errors, at Albany, in December 1823, and reported in the second of Cowen, page 333, the speech of Mr. Van Buren is given at length.

This was a case of great interest and importance : in reference to a prominent point involved in it, Chancellor Kent is said, by the Reporter, to have remarked : “ this may well be considered a grave and important question, demanding the utmost care and attention on the part of this Court ; for it was said on the argument, that property, to the amount of *half a million of dollars*, depended

upon the decision to be made in this case." Aaron Burr was also associated with Mr. Van Buren in the trial of this case, and the opposing counsel were S. Jones of New York, and Samuel A. Talcott, then Attorney General. The argument of Mr. Van Buren extends through seventeen pages of the Report, and upon his conclusion, Mr. Burr remarked that " he should add but little on the three first points of the defence ; the ability with which all the points had been examined by his associate, forbade his saying much in relation to either."

The argument of Mr. Van Buren in this case, may be particularly commended to the attention of professional readers, as an example of his exceeding clearness and felicity in opening an intricate case.

The following extracts from this argument will be interesting to the general reader, as they may be understood without an abstract of the case, and exhibit a fair specimen of the manner in which the speaker treated subjects of this nature.

After a full and clear statement of the facts, Mr. Van Buren said :

" This cause was brought before the Superior Court, and the questions which it involved, upon the limitations over, were considered as of a familiar, every day character; but in *Anderson vs. Jackson*, they were, for the first time, before this Court. Gentlemen were then heard upon them in another man's cause, depending upon the identical clause now under discussion; and the decision of the Supreme Court in our favor, was affirmed upon the very principle involved in the first point. * * *

" The decision, there, is said to have been erroneous, and that is the great and only material question in this

cause. That decision I am called upon to support: and I proceed to do it, with the greatest pleasure, because this Court consent to hear me. It is perhaps proper, as the late Chancellor Kent gave a very long and learned opinion, sustained by a respectable minority, against the majority who gave the judgment. I also owe it as a matter of respect to this Court, to show that its decision is not to be shaken."

He then furnishes a brief review of the various decisions upon the same principles, down to the case of *Anderson vs. Jackson*, and proceeds :

"But we shall be told that the decision in *Anderson vs. Jackson*, was not unanimous. True, it was not so; a fact which we looked upon as somewhat strange; for we had supposed the principle of that case as well settled as any one in the law. And it was peculiarly unfortunate that the opposition should come from that very quarter in which we had reposed our rights. Yes, the late Chief Justice, (then Chancellor,) Kent gives an opinion which occupies nearly thirty pages in the report, to show that the decision of the Supreme Court had been grossly erroneous!

"How stood the point, upon authority, on coming into this Court? The parties came here to litigate a principle so fully and plainly established, in the Supreme Court, that the decision of the cause, there, though involving a large amount of property, was not deemed worth reporting. You saw that principle concurred in by Kent, Chief Justice, Thompson, Chief Justice, and Spencer, Van Ness, Yates, and Platt, Justices; after a series of discussions almost unparalleled in the history of any principle in our law. You saw the same question arising and the same principle established in neighboring states. From every source, opposition was hushed; not only with men of books, but in the common walks of life. You knew that thousands of wills had been made upon that very principle, and that if you unsettled the rule, you opened Pandora's box. You knew it to be more important that the law should be settled, than how it should be settled. You secured to us a principle which had been established in the mind of every man for a long time; and you were

right, for the contrary would have been incalculably mischievous.

"But the propriety of your course was questioned by a long opinion from the late Chancellor, professing to show this series of adjudications by the most enlightened tribunals in the state, to be legal heresy. It is my duty to examine that opinion. I confess I do this with reluctance. It was this, and not any fears from its effect, which led me to join in the preliminary objection made by my associate, against this point being heard. In this, we were overruled. The opinion lies in our way and we must travel over it.

"With deference, then ;—it is an opinion inconclusive in all its parts, and of the *twenty-six* cases upon which it is founded, there is but one which gives color to it. * *

"It was, at least, to have been expected from the late Chancellor, that he would have shed a new ray of light upon the question, putting doubt at defiance. But I repeat it, out of *twenty-six* cases relied on by him, *Chadock vs. Cowley*, alone, is against us."

After an elaborate review of the cases cited by the Chancellor, he proceeds:

"How then, stands the question ? Does not the word *survivor*, rescue this case from the general principle ? Is it not clearly so ?—This court then decided, rightly, in *Anderson vs. Jackson*. For four years the law has been fixed by a court of *dernier resort*. Men have gone to their graves after having settled their estates upon the principles which you have promulgated. If erroneous, it is because the decision was made by men. You ought not to affirm it so much because it was right, as because it was law. There is hardly a will settling real estate which does not contain the disposition in question. It is the most common case in a devise. You have not the moral power to change your ground, because it is not right. Who can know what the law of this state is, unless your decision is final ? Shall we look into your decisions under the idea that they are to be overturned by a new set of men who shall come here to-morrow ? A change of decision with a change of men would be a less evil in the Supreme Court of this state, or of the United States, because from the tenure of the Judges' office, frequent

changes are not to be looked for. This Court may change once in four years.* Are we barely enabled to say, 'these words meant a definite failure of issue yesterday, but whether this will be the law next year, I will tell you after election?' The law of discretion, with the best of men and the best of judges, is, more or less, the creature of prejudice or passion. *Your decisions should be as stable as the constitution*; they should be so, in order that the suitor may, at least, see one spot where there is an end of uncertainty."

The last appearance of Mr. Van Buren before a jury, is said to have been in the trials of the celebrated Astor case, and the case of the Sailors' Snug Harbor, in the city of New York, in the fall of 1827. During the trial of the latter case, Mr. Emmet fell in an apoplectic fit from which he never recovered.

Mr. Van Buren's last effort at the bar was in the case of *Varick vs. Jackson*, argued before the Court of Errors at Albany, in the spring of 1828. At that point his professional career was interrupted by his political promotion. In connection with the former, however, it may be proper to remark that he was removed from the office of Attorney General, in July, 1819, his political opponents having gained the ascendancy in the council of appointment. He had discharged the duties of the office with ability, for more than five years. His friends regained their influence the following year,

* The Senators of the state of New York, eligible every four years, together with the Lieutenant Governor, Chancellor and Justices of the Supreme Court constitute the Court for the correction of Errors.

and a re-appointment to the same office was tendered to him, but declined.*

Thus has been presented a summary view of Mr. Van Buren's progress at the bar, during more than a quarter of a century. We have seen him commencing the practice of his profession in his native village, in his twenty-first year, amid embarrassments which could only have been overcome by extraordinary perseverance and energy. It has been truly said by a great philosopher of modern times, that "it belongs to the essence of every thing which is strong, to develop itself, to realize itself." This is strikingly evinced in the subject of the present narrative. We have seen his progress from his native village to the capital of the county, and thence to the capital of the state. We have seen him, gradually but steadily, rising in the ranks of his profession, by the force of his talents and his persevering industry, until he was called to exercise the functions of the highest law office in the state. We have seen him ascend from the humblest judicial tribunal to the court of

* Mr. Van Buren was married in 1806 to Miss Hannah Hoes, sister of his brother in law, Barent Hoes, Esq. She was distantly related to him before their marriage. The intimacy which resulted in this union was formed in very early life and was consummated amid circumstances highly creditable to the steadfastness of his attachments, as soon after his admission to the bar as seemed to be prudent. His ardent attachment to her was evinced on all occasions until the period of her decease, by the consumption, in 1818. A gentleman of high distinction who knew her intimately, from her earliest years, says, in a letter to the present writer "there never was a woman of a purer and kinder heart."

final resort. We have seen him encountering antagonists of the most eminent abilities, at every step of his progress, and finally enrolling his name in the illustrious catalogue of great men, who, in the first quarter of the present century, gave such distinction and splendor to the judicial tribunals of New York. After such an exposition of his success, amid such circumstances, to assert for him a claim to pre-eminent talent, would but detract from the demonstration afforded by the narrative.* If it be true that intrigue, without merit or talent, may sometimes secure political distinction, it must at least be universally admitted, that eminence in the legal profession can only be gained by great ability and great industry. In these lay the secret of Mr. Van Buren's success. Such and such only was the magic by which he rose to eminence. Let those who envy his success rather emulate his example. Equal industry united with equal talent may be certain of an equal reward.

* "Integritatem atque abinentiam intanto viro referre, injuria virtutum fuerit." Vita Agricolaë.



CHAPTER V.

MR. VAN BUREN's first agency in political affairs. Is active in supporting the election of Jefferson. Is delegate to a county convention in his nineteenth year. His first appearance as an elector. Supports Lewis for Governor in 1804; and Tompkins in 1807. Is appointed Surrogate of Columbia County. Opposes the renewal of the charter of the Bank of the U. S. and the chartering of the Bank of America. Is elected a member of the State Senate.

It must be obvious to the most cursory observer of passing events that the great body of the people, throughout the world, and especially in this country, are rising against all extraneous and artificial restraint, and are daily becoming more and more "a law unto themselves."*

* In 1828, it was said by the greatest philosopher of modern Europe: "The human race is, this day, assuming the robe and ensigns of virility; it has determined to see clearly into more things than one, which have hitherto been kept in darkness by the respect for former years. I confess I am myself among the num-

This must be a startling truth to those who believe in the folly, depravity and ignorance of the great mass of mankind. It is the theory of our government that all men are politically equal and that the supreme political power resides in the people. Few persons openly deny these principles, though many practically resist them; and perhaps the full extent to which they reach has not yet been fully appreciated by the most enlightened minds.

It is true that an individual, taken at random from the mass, may seem incompetent, in most instances, to the management of legislative affairs; but after all, the aggregate voice of the majority is the final and supreme standard of political truth. Just as in the estimates of the duration of human life or of the results in a game of chance, the age of a single individual or the throw of a single die furnishes no certain basis of calculation; yet when great numbers are considered certain estimates may be formed of general results. So in political matters; how erroneous soever individual opinions may appear, experience has shown and reason would demonstrate, that the general conclusions derived from the aggregate voices of a great people, are always right.

ber of those whom such an exhibition fills with gratitude to the providence of God, for having given them birth in an epoch, wherein it has pleased him, gradually, to elevate to the highest degree of intelligence, a greater number than ever of their fellow men." *Cousin's Intro. Hist. Phil. Lec. II.*

From the doctrine of popular supremacy it follows, that the nature of a political office, in this country, is the exact opposite of a similar franchise in aristocratic governments. Office holders are, here, the servants and not the rulers of the people. The real monarch is the private citizen; the private station is the real post of honor. The American private citizen has no political superior upon earth. Hence, in foreign countries, the people are not his equals; he is of the same rank with their monarchs. The office-holder in this country is in a state of obedience; his constituents are masters. If these truths were duly appreciated, there would be less scrambling for the privilege of becoming every body's servant. It would be felt that the station most worthy of the character of a freeman, is that of a private citizen.

Nothing more distinctly characterizes the two great parties in this country, than the relation in which they respectively stand to their political leaders. The anti-democratic party, regarding government as a matter too important and intricate to be trusted to the integrity and capacity of common people, cast around for *great men* to sustain its functions and regulate its principles. Distrusting the capacity of the people for self-government, they search after men of splendid talents to govern them. Destitute of self-reliance, they grope about for some independent spirit whom they may follow as a guide. They love to be governed; they feel great reverence for high birth, wealth and station; and delight to do homage to some political idol.

Their leaders are, often, men of powerful intellect, ardent feelings and lofty ambition. They are never hampered by the instructions of their constituents, who are content to submit themselves to the discretion of those whom they appoint to office.

The democratic party sustain a very different relation to the men whom they put in office. Their sympathies are most strongly drawn towards the individual who can best embody and express the spirit of their own principles. They want, for public office, servants and not masters; agents who will execute their will and not dictators to control it. The individual is nothing; his individual merits or demerits are nothing. It is only as a faithful representative of the pervading feelings and principles of his fellow men, their interests and their wants, that he is invested with distinction and entrusted with the exercise of power. He is merely in the front of public sentiment, not its director or governor. It is his function to embody and display the spirit of his age and nation, and while he may seem to lead public sentiment he is merely borne forward by its tide. The sentiments which are common to the great mass, but which exist in ordinary minds in more or less indistinctness and confusion, are, in his example, developed, illustrated and brought into action. Apparently a leader, he is, in fact, but the representative of the general spirit of his age and of the great mass of the people with whom he is connected. Between him and the body of his fellow men there exists an interior, spontaneous and irresistible

sympathy; a sympathy which directs them to him as a fit agent to demonstrate and execute their own feelings and will. As the personification of their own most sacred convictions, they regard him with confidence, enthusiasm, devotion. They recognize in him the spirit of their time, the very spirit of themselves; and every energetic display of his principles awakens a kindred response of feeling in their own bosoms.

This is the true secret of the unbounded confidence reposed in our present chief magistrate. He embodies and represents, more completely and fully than any other man, the spirit of the age and nation. This is the only unerring characteristic of a truly great man. Devotion to a faction may win reputation; notoriety will follow the exhibition of striking parts; but true greatness consists in embodying the feelings, securing the confidence, and commanding the admiration of the great mass of the people.

This feeling of confidence and sympathy, on the part of the great majority of the people, has accompanied Martin Van Buren from the first period of his entrance upon the arena of political life. Guided by his own internal convictions of right and wrong, of truth and falsehood, he has nevertheless had the good fortune to reflect as in a mirror, the sentiment and spirit of the nation and the epoch. Mr. Van Buren's complete identity with the popular cause in the earliest part of his life, has been alluded to in the former part of this narrative.

His first active participation in political affairs

was in the great contest which preceded the elevation of Mr. Jefferson to the presidency, in 1801.— He was, at that time, a student at law in Kinderhook, and espoused the interests of the democratic cause with the greatest ardor. His early devotion to the popular cause secured him the confidence and esteem of the democratic party in his native town. The same feeling soon extended throughout the county, and in the winter of 1800–1, he was deputed by the republicans of Kinderhook to represent their sentiments, in a convention of delegates from Rensselaer and Columbia counties, which convened to nominate a representative to the State Legislature.

Thus, we find him at the early age of eighteen years, entrusted with the expression of the political views of a portion of the democratic party. His abilities were put in requisition on that occasion, in preparing an address to the electors of the district.

Similar marks of confidence were reposed in him during every year in the remainder of his minority ; and he mingled, constantly and actively, with the veteran politicians of the county in the political contests of the day.

He entered upon his twenty-first year in the fall of 1803, and the ensuing spring, made his first appearance at the polls as an elector. At that election, Morgan Lewis and Aaron Burr were the opposing candidates for the office of Governor. Both professed to belong to the democratic party ; but the latter was arrayed against the general administration, and the former was the candidate of the majority of Jeffersonian democrats. In thus con-

test, the circumstances of the case imposed upon Mr. Van Buren a severe test of his integrity and independence. Col. Burr was warmly sustained by many leading politicians in Columbia county, among whom were some of Mr. Van Buren's warmest political friends. During his own residence as a student at law, in the city of New York, he had received many flattering marks of attention from the then Vice President, who embraced among his most zealous personal and political friends, Mr. William P. Van Ness with whom Mr. Van Buren was a student. But true to his own principles and the spirit of his party, he gave his vigorous and unhesitating support to Mr. Lewis, at the hazard of a temporary estrangement from several valued friends, who had hitherto also represented the feelings of the democracy.

In 1807, the antagonist candidates for the office of Governor, were Morgan Lewis and Daniel D. Tompkins. The latter, as the candidate of the democratic party and the most faithful organ of its sentiments, received Mr. Van Buren's most zealous and decided support. He was elected by a majority of 4085 votes. In 1810, Mr. Tompkins received from Mr. Van Buren a similar support. Indeed the views of these two eminent politicians appear to have been strikingly similar to each other on the leading political questions of that period.

In 1808, Mr. Van Buren was appointed Surrogate of Columbia county, and retained the office until February, 1813 ; when his political opponents having regained a temporary ascendancy, he was promptly removed.

As the election of Mr. Jefferson had called forth the earliest exertions of Mr. Van Buren, his administration received during its whole course, his unremitting support. Never for a moment did he waver or relax in his exertions. The democratic principles which gave the first direction to his political course, continued to be his steady rule of action. In that gloomy period, when the threatening aspect of our foreign relations, suspended commercial intercourse and forbode ruin to the enterprise and industry of our country, he shrunk not from the firm support of the firmest measures. The non-intercourse act, the embargo and every efficient measure of the administration for the security of our national rights, received his hearty concurrence. In the forcible language of another :—
“His support of the government was not merely active but zealous ; nor was his the zeal of ordinary men. It absorbed his whole soul ; it led to untiring exertion ; it was exhibited on all occasions and under all circumstances. Neither the contumely of inflated wealth, nor the opposition of invidious talent, nor the weekly revilings of a licentious press, could awe it into silence or soften it to moderation.”

In the mean time, his political influence and reputation was rapidly extending beyond the county of his residence. At a political meeting in Albany, in 1811, consisting principally of the republican members of the Legislature, Mr. Van Buren was present, and took a leading part.

At this period, the question of the renewal of the

charter of the first Bank of the United States was violently agitated. That charter expired on the 4th of March 1811. On the 2d of March 1809, Mr. Gallatin, then Secretary of the Treasury, made a report upon the subject, concluding with a proposition for the renewal of the Charter. On the 20th of February 1811, after a protracted debate, a vote was taken upon the main question in the Senate of the United States, and the members were equally divided. The venerable George Clinton, then Vice President of the United States, sealed the fate of the bill, by his casting vote against it. This vote was in strict accordance with the views of the democracy of the country. It was warmly defended and justified by Mr. Van Buren.

When the prospect of the continuance of the United States Bank disappeared, application was made to the Legislature of New York, by a powerful association, to charter a Bank in the city of New York with a capital of six millions of dollars, and to be called the Bank of America. The petitioners supported their application by propositions well calculated to appeal to temporary and pecuniary interests: they offered a bonus of four hundred thousand dollars, and a loan of two millions on easy terms; propositions which were the more opportune, as the great system of internal improvements in the state had already been agitated. It is well known that those fathers of democracy, George Clinton and Daniel D. Tompkins, were opposed to banking incorporations of almost every kind. Mr. Van Buren coin-


cided with them in this sentiment, and it was doubtless the general sentiment of the democracy of the state. They regarded the Bank of America as a substitute for the Bank of the United States ; and the latter institution was never viewed with a friendly eye by the democratic party.

Mr. Van Buren took the strongest ground against the proposed incorporation.

A convention of the republicans of the county was held in reference to the measure, at which Mr. Van Buren delivered a powerful speech against it, as a proposition fraught with danger to the public weal. The convention adopted a series of resolutions, prepared by him, denouncing the scheme as anti-republican and dangerous.

Such however was the influence exerted by the applicants, by open, and as it was believed, by corrupt, secret means, that in the spring of 1812, the most serious indications appeared in the Legislature of a disposition to grant the proposed charter.

In this emergency, Governor Tompkins, with a degree of firmness which has few parallels in political history, prorogued the Legislature from March 27th to the 21st of May. This energetic measure received the support of Mr. Van Buren's utmost influence and best talents. Upon the re-assembling of the Legislature in May, the act was passed in the Senate by a majority of three votes, embracing the names of Edward P. Livingston and Morgan Lewis, as well as of other members of the democratic party. It did not however become



a law ; but owed its defeat to the firmness of the Governor.

At this juncture, Mr. Van Buren was, for the first time, a candidate for an elective office, having been nominated as a Senator from the then Middle District. His opponent was Edward P. Livingston, a gentleman of eminent worth and talent, with powerful family friends, and strong political connections. Circumstances had indeed placed him, temporarily in a false position with respect to the democracy of the district ; but he received the warm support of many who had formerly been distinguished in the republican ranks. Of this number was William P. Van Ness, who had withdrawn a few years previous from the city of New York to his native county.

The opposition to Mr. Van Buren embraced the entire federal party ; the former friends of Col. Burr and Governor Lewis ; and the partizans of the proposed Bank of America.

The contest - was one of the most violent ever known in the state, and resulted in the election of Mr. Van Buren by a majority of less than two hundred out of twenty thousand votes.

Thus, in the thirtieth year of his age, he was placed in the highest branch of the Legislature of his state ; and from this time forth he has constantly appeared as a public man.

CHAPTER VI.

MR. VAN BUREN's course in the Senate of New York in regard to the War and the support of De Witt Clinton for the Presidency. Supports Tompkins for Governor in 1813. His energetic support of the War!

MR. Van Buren's legal term of service in the Senate of New York began on the 4th of July 1812. His first actual entrance upon the duties of the office was in the November following, at a special session of the Legislature convened to choose presidential electors. His course, at this period, has been so fully described by a gentleman whose means of information were complete, and whose candor and integrity are beyond all question, that the present writer would do injustice to the subject of this memoir by omitting to adopt that gentleman's own words.* The extracts relate to the course of Mr. Van Buren in regard to the nomi-


* Letter of Hon. Benjamin F. Butler to Hugh A Garland, Esq. of Virginia, in March 1835.

nation of De Witt Clinton for the Presidency and his course in relation to the War.

"The Republican members of the Legislature of New York, elected in the spring of 1811, resolved, during their session in the spring of 1812, to meet in Convention, for the purpose of nominating a candidate for the Presidency. Their numerical strength in the two Houses, was nearly one hundred. Of this number, eighty-seven met in Convention on the 29th of May, 1812, and unanimously nominated Mr. Clinton; who, on being informed of the nomination, accepted it. Mr. Van Buren was not then a member of the Legislature, nor was he in any way connected with these proceedings. He, however, concurred in the propriety of supporting the nomination thus made and accepted—and at the session of the Legislature, held in November 1812, in conjunction with a majority of the republican members of each branch, he took a decided part in the support of Presidential electors, who were voted for as friendly to Mr. Clinton, and who ultimately gave him the vote of the state.

"The Republican members of the Legislature of 1811—12, who brought forward Mr. Clinton as a candidate, had been themselves nominated and chosen, by the republican electors of the several counties and districts, in the manner usually adopted in New York, and were considered the Representatives of the democracy of the state. They and their constituents had supported the Administration of Mr. Jefferson, and that also of Mr. Madison, in all the great questions of public policy connected with our foreign relations. The great mass of them, so far from being opposed to belligerent measures against Great Britain, were in favor of a more decided policy than had been pursued towards her.

"In regard to Mr. Van Buren, this was peculiarly the case. There was probably no person in the state, of his own age, who had given a more efficient support to the measures of the General Government, during the whole period of the restrictive system, than himself. His contemporaries of all parties, in the county of his residence, might be applied to as witnesses, on this point. He was an open and decided advocate of all the strong measures proposed against Great Britain, during the session of Congress of 1811—12, the war included. Having been born and reared in the same town—having been, from Ju-



ly 1812, until after the peace, an inmate of his family, I am able to speak on this subject, from personal knowledge. No man of character, acquainted with his course and opinions in 1812, will venture to assert that he ever expressed a doubt as to the justice of the war, or the expediency of engaging in it, at the time it was declared.

"In supporting the nomination of Mr. Clinton, Mr. Van Buren consulted what he believed to be the wishes of the republicans of his state. His efforts, however, were confined to New York. With those made by the friends of Mr. Clinton, in other states, he had no concern. And though, in the choice of electors, Mr. Clinton ultimately received the votes of the federal members of the Legislature of New York, and was also supported by that party in other states, Mr. Van Buren's relations to it were entirely unaltered. The hostility towards him, of the federalists as a party, in the county in which he then resided, was as decided and as violent, during the year 1812, as it had been before, or was afterwards. Indeed, it has never been withdrawn, nor suspended, from the commencement of his political career to the present day. Occasional exceptions might be made in regard to individuals, but not enough to vary the general result.

"Upon the whole, it is submitted to the judgment of intelligent and candid men, that whether the support of Mr. Clinton was right or wrong, there is nothing in the mere fact of that support, under the circumstances stated, to sustain the imputation of opposition to the war.

"Let me now give you a summary of Mr. Van Buren's public course in the Legislature of New York, so far as it bears upon this point. As has been stated, he took his seat in the Senate of New York, in November, 1812.

"Until the adoption of the new constitution in 1891, the Governor, instead of a message, delivered a speech to the Legislature, at the opening of each session. An answer was made to the speech, by each House, in which the views of the majority upon the prominent political questions of the day, were set forth, and thus made the subject of discussion, before any legislative measures in respect to them, were matured. Committees were appointed to prepare the answer, a majority of whom would, it was supposed, be most able and willing to present faithfully the views of the minority of their respective houses, and the strongest man of the minority was usually selected to offer a substitute. Although this was Mr. Van Bu-

ren's first appearance in any legislative body, he being, with perhaps a single exception, the youngest man that had, up to that time, been elected to the Senate, he was placed upon the committee, and prepared and reported the answer to the Governor's speech. This answer was published by his friends on the occasion referred to. It vindicated the justice of the war, and urged a vigorous prosecution. This, you will observe, was at the very session at which electors were chosen friendly to Mr. Clinton.

"At the ensuing session of the Legislature, which commenced in January 1813, the political relations previously existing between Mr. Clinton and Mr. Van Buren were dissolved, and never again resumed. The disastrous results of the preceding year had then began to press heavily on the country, and especially on the state of New York. Her course in respect to the war, became therefore a matter of the first importance. Mr. Van Buren, from the commencement of his legislative career, gave to all war measures the most decided and vigorous support. Independently of his speeches and votes on the floor of the Senate, he took a leading part in the re-nomination of Governor Tompkins, and was appointed by the meeting to prepare an address to the republican electors in support of this nomination. In this paper he went at large into the causes and grounds of the war, and vindicated, with much force of reasoning, and with all the fervor of youthful patriotism, the indispensable duty and high justice of the measure. In the recent compilation of Mr. Emmons, which you may have seen, you may find copious extracts from this address. No man I think can read them without a decided conviction of the writer's sincerity and zeal.

"In April, 1813, Governor Tompkins was re-elected; but the federalists obtained a majority in the house of Assembly. During the next session of the Legislature, which commenced in January, 1814, Mr. Van Buren was again conspicuous during the war, and as the popular branch was in the hands of the opposition, the course of the Senate became doubly important. He assisted in carrying through the Senate several measures intended to aid the General Government in the prosecution of the war, which were rejected by the other house, and in the public conferences to which these differences between the two houses led, was one of the principal speakers on the part of the senate.—At the special session of the Legislature of New York, held in September 1814, his efforts, though not more zealous, were more efficient and useful—the democratic

party having in the mean time regained their ascendancy in the Assembly. This session had been convened by Executive proclamation, in consequence of the new character which had been given to the war during the year, and of the exposed condition of the state. The answer of the Senate to the speech of the Governor, again prepared by him as chairman of the committee, and which you will also find in the compilation of Mr. Emmons, reaffirmed the justice of the contest on our part, adverted to the eventful nature of the crisis, its dangers, and its duties, and pledged to the state and Union, the active co-operation of the Senate. I think, on perusing it, you will agree that it was in keeping with the character and exigency of the times.

"During this special session, Mr. Van Buren matured, brought forward and defended in debate, several war measures of the strongest character. Of these, the most prominent was 'An act to authorize the raising of troops for the defence of the state,' which passed both houses, and being approved by the Governor, became a law on the 24th of October 1814. It authorized the Governor to place at the disposal of the General Government, 12,000 men for two years, to be raised by suitable classifications of the militia of the state; but with such improvements in its details as to avoid many of the inequalities and other objectionable features of the former system of militia drafts. This law has been truly characterized by Col. Benton, in his late letter to the committee of the Mississippi Convention, 'as the most energetic war measure ever adopted in this country.' In the Legislature, it encountered the most strenuous opposition, which was continued after the adjournment of that body, and until the restoration of peace. A copy of it was, soon after its introduction, delivered to Mr. Monroe, then Secretary of War, and it would seem to have suggested to that gentleman some portion of the plan submitted by him to Congress, in his report of the 15th of October 1814.

"At the ensuing session of the Legislature, which commenced in January 1815, Mr. Van Buren again took the lead in support of the war; and was actually engaged, as chairman of a committee, appointed on his motion, to consider whether any additional provisions were necessary to carry the classification law, into immediate and successful operation, in the deliberations of that committee,

when the news of peace was received at the seat of government.”*

In the above extract it is stated that Mr. Van Buren supported the re-election of Governor Tompkins in 1813. He was chairman of the committee which made the nomination, and the following extracts are from an address to the republican electors, written by him and adopted by the convention.

“FELLOW CITIZENS—It is not to the arbitrary mandates of despotic power, that your submission is demanded; it is not to the seductive wiles and artful blandishments of the corrupt minions of aristocracy, that your attention is called—but to an expression and discussion of the wishes and feelings of your representatives.

“You are invited to listen with calmness and impartiality, to the sentiments and opinions of men who claim no right superior to yours,—who claim no authority to address you save that of custom; who would scorn to obtain the coincidence of your opinion by force or stratagem, and who seek no influence with you, except that which arises from conscious rectitude, from a community of hopes and fears, of right and of interests.

“In making this appeal, which is sanctioned by usage, and the necessity of which is rendered imperious by the situation of our common country, we feel it to be our duty, as it is our wish, to speak to you in the language which alone becomes freemen to use—the language to which alone it becomes freemen to listen—the language

* The original draft of the Classification Law, in the handwriting of Mr. Van Buren, is still on file in the office of the Clerk of the Senate of New York, with the following amendment, also in the handwriting of Mr. Van Buren :

“The original Classification Bill, to be preserved as a memento of the patriotism, intelligence and firmness of the Legislature of 1814—15.

M. V. B. Albany, Feb. 15, 1815.”

of truth and sincerity ;—to speak to you of things as they are and as they should be,—to speak to you with unrestrained freedom, of your rights and your duties,—and if by so doing we shall be so fortunate as to convince you of the correctness of the opinions we hold ; to communicate to you the anxious solicitude we feel for our country and its rights ; to turn your attention from the minor considerations which have hitherto divided, distracted, and disgraced the American people, and to direct it exclusively to the contemplation and support of your national honor and national interests, *our first* and only object will be effected.

“That tempest of passion and of lawless violence which has hitherto almost exclusively raged in the countries of the old world, which has ravaged the fairest portions of the earth, and caused her sons to drink deep of the cup of human misery—not satiated by the myriads of victims which have been sacrificed at its shrine, has reached our hitherto peaceful shores. After years of forbearance, in despite of concessions without number, and we had almost said, without limitation, that cruel and unrelenting spirit of oppression and injustice which has for centuries characterized the spirit of the British cabinet, overwhelmed nation after nation, and caused humanity to shed tears of blood, has involved us in a war,—on the termination of which are staked the present honor, and the future welfare of America.

“While thus engaged in an arduous and interesting struggle with the open enemies of our land from without, the formation of your government requires that you should exercise the elective franchise,—a right which in every other country has been destroyed by the ruthless hand of power, or blasted by the unhallowed touch of corruption ; but which, by the blessings of a munificent Providence, has as yet been preserved to *you* in its purity.

“The selection of your most important functionaries is at hand. In a government like ours, where all power and sovereignty rests with the people, the exercise of this right, and the consequent expression of public interest and public feeling, is on ordinary occasions, a matter of deep concern, but at a period like the present, of *vital* importance ;—to satisfy you of that importance, and to advise you in its exercise, is the object of this address.

“Fellow Citizens—Your country is at war, and Great Britain is her enemy. Indulge us in a brief examination of the causes which have led to it ; and brief as from the

necessary limits of an address it must be,—we yet hope it will be found sufficient to convince every honest man, of THE HIGH JUSTICE AND INDISPENSABLE NECESSITY OF THE ATTITUDE, WHICH OUR GOVERNMENT HAS TAKEN ; OF THE SACRED DUTY OF EVERY REAL AMERICAN TO SUPPORT IT IN THAT ATTITUDE, AND OF THE PARRICIDAL VIEWS OF THOSE WHO REFUSE TO DO SO.”

The address then gives a rapid and eloquent summary of the causes of the war, and alludes to the re-enactment, by the British government, of the orders in council ; after which it proceeds :—

“The American people—a people rich in resources, possessed of a high sense of national honor, the only free people on earth—had resolved in the face of an observing world, that *those orders were a direct attack upon their sovereignty ; that a submission to them involved a surrender of their independence*—and a solemn determination to adhere to them, was officially declared by the ruler of the British nation. Thus situated, what was your government to do ? Was there room for doubt or hesitation as to the hostile views of England ? No. Lest such doubts might prevent a rupture, to acts of violent injustice were continually added acts of the most opprobrious insult. While the formal relations of amity remained yet unbroken—while peace was yet supposed to exist—in cool blood an unprovoked attack is made upon one of your national ships, and several American citizens basely and cowardly murdered. At the moment your feelings were at the highest pitch of irritation in consequence of the perfidious disavowal of Erskine’s agreement, a minister is sent, not to minister to your rights—not to extenuate the conduct of his predecessor—but *to beard your Executive—to add insult to injury ; and to fling contumely and reproach in the face of the Executive of the American nation, in the presence of the American people.*

“To cap the climax of her iniquity ; to fill up the measure of our wrongs ; she resolved to persist in another measure, surpassed by none in flagrant enormity—a measure, which of itself was adequate cause of war—a measure which had excited the liveliest solicitude, and received the unremitting attention of every administration of our

government, from the time of Washington to the present day; the wicked, the odious and detestable practice of impressing American seamen into her service; of entombing our sons within the walls of her ships of war; compelling them to waste their lives, and spill their blood in the service of a foreign government—a practice which subjected every American tar, to the violence and petty tyranny of a British midshipman, and many of them to a life of the most galling servitude—a practice which never can be submitted to by a nation professing claims to freedom; which can never be acquiesced in by government without rescinding the great article of our safety, *the reciprocity of obedience and protection between the rulers and the ruled.*

“Under such accumulated circumstances of insult and of injury, we ask again, what was your government to do? We put the question not ‘to that faction which misrepresents the government to the people, and the people to the government; traduces one half the nation to cajole the other—and by keeping up distrust and division, wishes to become the proud arbiter of the fortune and fate of America,’—not to them, but to every *sound head and honest heart* in the nation it is that we put the question,—what was your government to do? Was she basely and ingloriously to abandon the rights for which you and your fathers fought and bled? Was she so early to cower to the nation which had sought to strangle us in our infancy, and which has never ceased to retard our approach to manhood? No: we will not for a moment doubt, that every man who is in truth and fact an American, will say that **WAR, AND WAR ALONE, was our only refuge from national degradation,—our only course to national prosperity.**

“Fellow Citizens—Throughout the whole period of the political struggles, which if they have not absolutely disgraced, have certainly not exalted our character, no remark was more common—no expectation more cheerfully indulged in—than that those severe and malevolent contentions would only be sustained in time of peace; that when the country should be involved in war, every wish, and every sentiment would be exclusively American. But unfortunately for our country, those reasonable expectations have not been realized, notwithstanding every one knows, that the power of declaring war, and the duty of supporting it, belong to the General Government; notwithstanding that the constitutional remedy for the reme-

val of the men to whom this power is thus delegated, has recently been afforded ; notwithstanding the re-election of the same President by whom this war was commenced, and a majority of representatives, whose estimate of our rights, and whose views are similar to those who first declared it ; men, who by the provisions of the constitution, must retain their respective stations for a period of such duration, as precludes a continued opposition of their measures without a complete destruction of our national interest—an opposition at once unceasing and malignant, is still continued, to every measure of the administration.

“Fellow Citizens, these things will not do. They are intrinsically wrong ; *your country has engaged in a war in the last degree unavoidable* ; it is not waged to the destruction of the rights of others ; but in defence of our own ; it is, therefore, your bounden duty to support her. You should lay down the character of *partizans*, and become *patriots* ; for, in every country, ‘war becomes an occasional duty, though it ought never to be made an occupation. Every man should become a soldier in defence of his rights ; no man ought to continue a soldier for offending the rights of others.’ In despite of truths so self-evident, of incentives to a vigorous support of government so pressing, we yet have to deplore the existence of a faction in the bosom of our land, whose perseverance and industry are exceeded only by their inveteracy ; who seek through every avenue to mislead your judgment and to inflame your passions.

“When your government pursues a pacific policy, it becomes the object of their scorn and derision ; the want of energy in your rulers is decried, as a matter of alarming consideration ; the injuries of your country are admitted, and the fact is triumphantly alleged that ‘the administration cannot be kicked into a war.’ When they are impelled to a forcible vindication of our rights, the cry of enmity to peace, of a wish to war with England to serve France, is immediately resounded through the land. When war is declared, public opinion is sought to be prejudiced against the measure, as evincing a disposition unnecessarily to shed your blood, and waste your treasures. When it is discovered, that that declaration is accompanied with a proposition, a just and equitable proposition, to the enemy, on which hostilities may cease and peace be restored, that proposition is derided as evidence of the most disgraceful pusillanimity. No falsehood is consid-

ered too glaring, no misrepresentation too flagitious, to impose on your credulity, and seduce your affections from your native land.

“Lest general allegations might fail to effect their unholy purposes, and consummate their dark designs, specific charges are resorted to—calumnies which have again and again met the detestation of an enlightened public, are periodically brought forward, new dressed, and with new authorities to give them credence with you. Among the most prominent of those charges, is that of enmity to commerce, on the part of the republican administrations. Never was there a calumny more wicked. Enmity to commerce! We ask, and we ask emphatically, where is the evidence of it? What is the basis on which they rest their claim to public confidence? It is that the administration is engaged in a war which they claim to be unpopular. What are the causes for which this war is waged, and which have hitherto embroiled us with the nations of Europe? They are the *violation of our commercial rights, and the impressment of our seamen!* The administration then, are jeopardising their interest with the people; they furnish weapons of offence to their adversaries; they brave all dangers, for the maintenance and support of our commercial rights; and yet they are the enemies of commerce! Can such base sophistry, such contemptible nonsense, impose on the credulity, or pervert the understanding of a single honest man?

“Suffer yourselves not to be deceived by the pretence, that because Great Britain has been forced by her subjects to make a qualified repeal of her orders, our government ought to abandon her ground. That ground was taken to resist two great and crying grievances, the *destruction of our commerce, and the impressment of our seamen.* The latter is the most important, in proportion as we prefer the liberty and lives of our citizens to their property. Distrust, therefore, the man who could advise your government at any time, and more especially, at this time,—when your brave sailors are exciting the admiration, and forcing the respect of an astonished world, when their deeds of heroic valor make old Ocean smile at the humiliation of her ancient tyrant—at such a time, we say again, mark the man who would countenance government in **COMMUTING OUR SAILORS' RIGHTS FOR THE SAFETY OF OUR MERCHANTS' GOODS.**

“Next to the cry for peace, the most potent spell which has been resorted to, to alarm your fears and pervert your

understandings—is the alleged distresses of the country. Fellow-citizens, it has been our object, it is our wish to treat you fairly, to appeal to your judgments, not to your passions ; and as we hope our address to you hitherto has been marked by that character—it is to your consciences then that we appeal upon this subject. Is not this clamor most unfounded, most ungrateful ? If you doubt that it is so, if you hesitate to believe that it originates exclusively with the ambitious and designing—spend one moment in comparing your situation with that of the major part of the civilized world.

“ Fellow-citizens—should those political witlings, who are not only ignorant themselves of the leading points of controversy in our disputes with the belligerents, but who are uniformly assailing you as men destitute at once of spirit and of judgment—should they point to the wars which agitate and have convulsed Europe, as arguments against the prosecution of that just and necessary one which has been forced upon us, we know that you will indignantly repel the unfounded suggestion. The wars of Europe are waged by monarchs, to gratify their individual malice, their individual caprice, and to satiate their lawless ambition. Ours is in defence of rights which must be defended, or our glory as a nation will be extinguished—the sun of our greatness will set forever.—As well might it have been said during the revolution, that war should not be waged, because wars had desolated Europe. The same rights you then fought to obtain, you must now fight to preserve—the contest is the same now as it was then—and the feelings which then agitated the public mind, which on the one hand supported, and on the other sought to destroy, the liberties of the country, will be seen and felt in the conduct of the men of this day.

“ Fellow-citizens—we are compelled to close this appeal to you. The limits of an address will not permit us to do justice to the various subjects which should occupy your attention. We are aware that this has been already unreasonably extended ; but the period has arrived when mere words and idle declarations must be unavailing.—We have, therefore, felt it our duty to give you, as far as practicable, a clear view of your true situation, of your legitimate duties. Unfortunately for us, when we ought to be an united, we are a divided people. The divisions which agitate us are not as to men only, but to principle. You will be called on at the next election, to choose be-

tween different candidates, not only for the two great offices of state, Governor and Lieutenant governor, but for every other elective office—to make a selection which the actual situation of your country renders of infinite importance.

“ We are divided between the supporters and opposers of our government. We have witnessed the distressing truth, that it is not in the power of circumstances to destroy the virulence of party spirit. The opposition offer for your support, men, who, whatever their private wishes may be, are devoted to the support of a party whose views and whose conduct we have attempted to delineate. In opposition to them, we respectfully solicit your support for the men whose nomination accompanies this address, one of whom* has for six years served you in the capacity which we now offer him ; the other† has for many years served you in the most responsible situations. The notoriety of their merit supersedes the necessity of our eulogium—their lives are their best encomiums ; they are the true friends of commerce ; their views are, and their conduct will be, in unison with the measures of the General Government ; they are the sincere friends of an honorable peace, the firm and energetic opposers of a base surrender of our rights.

“ We respectfully solicit for them your undivided support. We solemnly conjure every real friend to his country, to reflect on the danger of abandoning his government at a period so perilous ; to reflect on the impropriety of even indirectly aiding the views of our enemies by continuing his opposition to government at a period so eventful.

“ We solicit the honest men of *all parties*—to remember that ours is the last republic—that all the influence of the crowned heads of Europe has been exerted to propagate the doctrine, that a government like ours can never stand the rude shock of war ; to reflect that this is the first occasion in which this government has been engaged in a war, and that the great and interesting questions, whether man is capable of self-government, whether our republic must go the way of its predecessors, or whether, supported by the hearts and arms of her free citizens, she

* Daniel D. Tompkins.

† John Taylor.

shall deride the revilings, and defeat the machinations of her enemies, are *now to be tried*.

"*Fellow-citizens*—In the result of our elections during the continuance of this war, these important considerations are involved,—the question of WHO IS FOR HIS COUNTRY OR AGAINST HIS COUNTRY, must now be tried—the eyes of Europe are directed towards us—the efficacy of your mild and wholesome form of government is put to the test. *To the polls*, then, and by a united and vigorous support of the candidates we submit to you, discharge the great duty you owe to your country, preserve for your posterity the rich inheritance which has been left you by your ancestors,—that future ages may triumphantly point to the course you pursued on this interesting occasion, as evidence that time had not yet extinguished that spirit which actuated the heroes of *Breedshill* and of *Yorktown*; of those who fell at *Camden*, and of those who conquered on the plains of *Saratoga*."

The following answer of the Senate to the speech of the Governor at the extra session of the Legislature in 1814, is from the pen of Mr. Van Buren. During this session he was chairman of the committee of Ways and Means.

"To his Excellency, D. D. Tompkins, Governor of New York.

"SIR—The Senate, at the close of their last session, indulged, in common with their fellow-citizens, the pleasing expectation, that before this period the blessings of peace upon just and honorable terms would have been restored to their country. They have thus far been disappointed; and although the mission to which they looked for its accomplishment has not yet terminated, the delay which has taken place in the commencement of negotiations, and the spirit of increased hostility manifested by the enemy in the prosecution of the war, combine to forbid any confident reliance upon the disposition professed by him in the communication which led to that mission.

"If, in the result, it shall appear, that in these professions he was originally insincere; or that, influenced by after circumstances, he delayed the negotiations proposed by himself, until he should have exerted against us the ad-

ditional means of annoyance which recent occurrences in Europe had placed at his disposal—the world will not hesitate, in either case, to pronounce upon his conduct the sentence of strong and indignant reprobation.

“The world have already seen, and they cannot but have seen with astonishment, that when ambassadors for peace, invited by himself, had already crossed the ocean, he has given a new and peculiar character to the contest, a character of violence and outrage, not only incompatible with the feelings of reconciliation, but, in the highest degree disgraceful to civilized nations, and repugnant to the established rules of legitimate warfare.

“Whether this conduct has proceeded from ancient animosities now seeking their gratification, in the infliction of injuries upon those who once defied and foiled his power—whether from a desire of finding employment for troops whom it was not thought prudent to disband at home—whether from hostility to our civil institutions, and the vain hope of subverting the fair fabric which by the wisdom, the virtue, and the valor of our fathers, has been reared and secured to us—or from a calculation that by carrying his arms into the heart of the country, and marking his course with desolation and ruin, he could make an impression on the government which should avail him in the proposed negotiations, or on the people which should be remembered to his advantage in any question which should hereafter arise between the nations—whatever may have been his motives, or whatever his expectations, the Senate cannot but exult in common with your excellency and the country, that thus far ‘we have sustained the shock with firmness and gathered laurels from the strife.’

“Although he has succeeded in penetrating to the capitol, his momentary triumph, disgraced as it was by the destruction of public edifices and the subsequent plunder of a defenceless city, has before this time been embittered by the reflection, that by the conflagration of those monuments of art which public spirit and munificence had erected, and which were consecrated by the name of their illustrious founder, he has kindled a flame of patriotism which pervades every section of the union, which has already lit the way to his severe discomfiture, and which threatens his complete annihilation, at every assailable point of the Union to which his ambition or his resentment may lead him.

“The Senate have witnessed with the same admira-

tion, evinced by your excellency, the brilliant achievements of our army and navy during the present campaign—achievements, which, in their immediate effects, have been so highly and extensively beneficial to our frontier citizens—achievements which have pierced the gloom, that for a season obscured our political horizon and dispelled those fearful forebodings which past disasters had excited—exploits which will not suffer in a comparison with the most heroic efforts of the veterans of the old world, which have fully maintained if not enhanced the proud and enviable fame of our gallant seamen—exploits which have covered the actors in those bright scenes with never fading laurels, and which will, until public gratitude ceases to be a public virtue, call for the highest testimonials which a free people can yield to freemen—unceasing reverence for the memories of those who have died on the field of honor, and acts of unceasing gratitude to their heroic survivors.

“The Senate have seen with great satisfaction, the prompt and efficacious measures adopted by your excellency to avert the dangers which threatened the state; and believing as they do, that whatever executive authority may have been exercised, for which no legislative provision existed, has not only been intended for the promotion of the public good, but was rendered indispensable by the pressure of existing circumstances; they cannot doubt that the measures to which your excellency has referred, will be found to deserve their approbation and support.

“The Senate cannot forego the opportunity afforded them, of uniting with your excellency, in an expression of the high satisfaction with which they have witnessed the unanimity and patriotism displayed by all classes of the community in the present crisis, and the disposition which they have manifested to combine their efforts for the maintenance of national honor and common safety.

“That on questions of general policy, or the fitness of individuals for particular stations, we should ever be exempted from differences of opinion is not to be expected.—Divisions like those are inseparable from the blessings of our free constitution; and although sometimes carried to an excess which all good men must deplore, they are, notwithstanding, generally productive of much national good. But to suppose that a people jealous of their rights and proud of their national character, would on a question of resisting the aggressions of an open enemy—aggressions which have polluted our soil, and which threaten the

subversion of those inestimable political institutions which have been consecrated to freedom by the blood and sufferings of their fathers—that on a question of such vital interest, so well calculated to excite all the patriotism, to arouse all the spirit, and to call into action all the energies of the nation, they would waste their strength in useless collision with each other—would be a reflection upon their discernment and their character, which they can never merit.

“The various other subjects submitted by your excellency to the Legislature, will receive from the Senate that prompt attention to which their importance entitles them.

“The important interest which the state of New York has in the successful termination of the controversy in which we are involved, and the high destiny to which her local situation, the extent and variety of her resources, and the valor and patriotism of her citizens, aided by a just and liberal policy, may advance her, have been duly appreciated by your excellency. The Senate cheerfully pledge their best exertions to realize those great and well founded expectations; and relying on the patriotism and good sense of the American people, they confidently trust that the rights and interests of the nation will be maintained, and that at no distant period the mild reign of peace will be restored to our bleeding country.”

The sessions of the Legislature in New York in 1813 and 1814, exhibited scenes of the greatest political violence. The federal party had a majority in the house of Representatives, but the republicans had the control in the Senate. Among the most prominent members of the latter body were Mr. Van Buren, Nathan Sanford, and Erastus Root. Differing thus in their views of public policy, the two branches of the Legislature were often in conflict with each other. Many public acts of a patriotic character, which were passed by the Senate, were rejected by the House. This led to frequent conferences of committees from both bodies. In these conferences the measures in dispute

were publicly discussed, and the discussion embraced the general policy of the administration and the expediency of the war. The exciting nature of the questions thus debated, the solemnity of the occasion, the discussions being conducted in the presence of the two houses, and the brilliant talents of the parties to the controversy, drew vast audiences, and presented a field for the display of eloquence unsurpassed, in dignity and interest, by the assemblies of ancient Greece. Mr. Van Buren was always the leading speaker on the part of the Senate ; and by the vigor of his logic, his acuteness and dexterity in debate, and the patriotic spirit of his sentiments, commanded great applause. A speech which he delivered on one of those occasions was so replete with eloquence and patriotic views, that a committee appointed by the republicans of Albany, formally presented him the thanks of the party and requested a copy for publication. This request could not be complied with as the speech had been delivered entirely without notes.

Mr. Van Buren's patriotic services during this trying period, have been depicted with much truth and spirit in the letter of Col. Benton, alluded to in a former extract, from which the following passages are taken. In refuting the allegation that Mr. Van Buren had rendered the republic little service, Col. Benton says :

“ Justice to him would require an answer to go further back,—to the war of 1812, when he was a member of the New York Senate ; when the fate of Mr. Madison's administration, and of the Union itself, depended upon the

conduct of that great state—great in men and means, and greater in position, a frontier to New England, and to Canada—to British arms and Hartford Convention treason ; and when that conduct, to the dismay of every patriotic bosom, was seen to hang, for nearly two years, in the doubtful scales of suspense. The federalists had the majority in the house of Representatives ; the democracy had the Senate and the Governor ; and for two successive sessions no measure could be adopted in support of the war. Every aid proposed by the Governor and Senate, was rejected by the house of Representatives. Every state paper issued by one, was answered by the other. Continual disagreements took place ; innumerable conferences were had ; the hall of the house of Representatives was the scene of contestation ; and every conference was a public exhibition of parliamentary conflict—a public trial of intellectual digladiation, in which each side, represented by committees of its ablest men, and in the presence of both houses, and of assembled multitudes, exerted itself to the utmost to justify itself, and to put the other in the wrong, to operate upon public opinion, govern the impending elections, and acquire the ascendancy in the ensuing Legislature. Mr. Van Buren, then a young man, had just entered the Senate at the commencement of this extraordinary struggle. He entered it, November 1812 ; and had just distinguished himself in the opposition of his county to the first national bank charter—in the support of Vice President Clinton for giving the casting vote against it—and in his noble support of Governor Tompkins, for his Roman energy in proroguing the General Assembly, (April 1812,) which could not otherwise be prevented from receiving and embodying the transmigratory soul of that defunct institution, and giving it a new existence, in a new place, under an altered name and modified form. He was politically born out of this conflict, and came into the Legislature *against* the bank, and *for* the war. He was the man which the occasion required ; the ready writer—prompt debater—judicious counsellor ; courteous in manners—firm in purpose—inflexible in principles. He contrived the measures—brought forward the bills and reports—delivered the speeches—and drew the state papers, (especially the powerful address to the republican voters of the state,) which eventually vanquished the federal party, turned the doubtful scales, and gave the elections of April, 1814, to the friends and supporters of Madison and the war ; an event, the intelligence of

which was received at Washington with an exultation only inferior to that with which was received the news of the victory of New Orleans. The new Legislature, now democratic in both branches, was quickly convened by Governor Tompkins ; and Mr. Van Buren had the honor to bring forward, and carry through, amidst the applauses of patriots, and the denunciation of the anti-war party, the most energetic war measure ever adopted in our America—the classification bill, as he called it, the conscription bill, as they called it. By this bill, the provisions of which, by a new and summary process, were so contrived as to act upon property, as well as upon persons, an army of twelve thousand state troops were immediately to be raised ; to serve for two years, and to be placed at the disposition of the General Government. The peace which was signed in the last days of December 1814, rendered this great measure of New York inoperative ; but its merit was acknowledged by all patriots at the time ; the principle of it was adopted by Mr. Madison's administration ; recommended by the Secretary at War, Mr. Monroe, to the Congress of the United States, and found by that body too energetic to be passed. To complete his course in support of the war, and to crown his meritorious labors to bring it to a happy close, it became Mr. Van Buren's fortune to draw up the vote of thanks of the greatest state of the Union, to the greatest General which the war had produced—*'the thanks of the New York legislature to Major General JACKSON, his gallant officers and troops, for their wonderful, and heroic victory, in defence of the grand emporium of the West.'* Such was the appropriate conclusion to his patriotic services in support of the war : services, to be sure, not rivaling in splendor the heroic achievements of victorious arms ; but services, nevertheless, both honorable, and meritorious in their place ; and without which battles cannot be fought, victories cannot be won, nor countries be saved. Martial renown, it is true, he did not acquire, nor attempt ; but the want of that fascination to his name can hardly be objected to him, in these days, when the political ascendancy of military chieftains is so pathetically deplored, and when the entire perils of the republic are supposed to be compressed into the single danger of a military despotism."

The classification bill alluded to in the foregoing extracts was the favorite measure of Mr. Van Bu-

ren. A debate was continued during two days, in the Senate, on the question whether troops should be raised by voluntary enlistment or by classification. Messrs. Root and Radcliff were the principal advocates of the former method : and Messrs. Van Buren and Hubbard of the latter.— On the 12th of October, the principle of classification was adopted by a vote of twenty to eight. On the 14th of October, the bill finally passed, and provided for the raising of twelve thousand troops for two years.

The principle of raising troops by classification is said to have had its origin in New England, during the war of the revolution. Its object is to equalize the burden of military duty among all classes of the community according to property.


CHAPTER VII.

MR. VAN BUREN's defence of the Classification bill. Is appointed Attorney General of New York.—Gives an efficient support to the project for the Erie and Champlain Canals.

AFTER the passage of the classification bill by the Legislature, it met with great opposition from Chancellor Kent in the Council of revision. On the 21st of October he delivered an opinion, embracing five objections to the bill, which were fortified by his usual ingenuity and learning. The opinion of the Chancellor was over-ruled by the other members of the council, but his objections found their way into the public prints, and coming from so respectable a source, were seized upon by political partizans, as a means of impairing public confidence in the validity of the laws and in the discretion of those who enacted them.

Col. Samuel Young, who was at that time speaker of the house of Representatives in the New York Legislature, and had been the most prominent sup-

porter of this measure in that body, addressed a series of letters to the Chancellor in the public prints, in which he defended the measures of the democratic party, and the classification bill in particular, with signal eloquence and ability. The letters were signed *Juris Consultus*. They were replied to by the Chancellor himself, under the signature of *Amicus Curiae*. At this point Mr. Van Buren entered into the controversy, and replied to the strictures of the Chancellor under the signature of *Amicus Juris Consultus*. He first took a general view of several topics connected with the controversy, and, in conclusion, minutely reviewed the several objections raised by the Chancellor in the Council of revision, and as *Amicus Curiae*. The controversy, involving questions of constitutional law of the greatest magnitude, as well as the most exciting political questions, attracted great attention and drew forth the fullest display of learning and ability on both sides. By some of Mr. Van Buren's friends, it was deemed rashness, on his part, to enter the lists against such a veteran in politics and one so profoundly learned in constitutional law as Chancellor Kent. The result, however, showed that they had not sufficiently appreciated his powers. His papers exhibited great ability and research, and he so clearly demonstrated both the policy and constitutionality of the act, and so completely annihilated the arguments of his adversary, that the latter withdrew from the contest by the publication of a "card."



The learning and talent displayed in this controversy, contributed greatly to his elevation to the office of Attorney General of the state, which appointment he received in February 1815. He was at that time thirty-two years of age. During the same session, he was also appointed by the Legislature, a regent of the University of New York.

In the spring of 1816, he was re-elected to the Senate of the state for the further period of four years.

The project of uniting the waters of the Hudson with lake Erie and with lake Champlain, was a leading subject of consideration in the Legislature of New York, during the winter of 1816. For six years previous, there had been a board of commissioners to make examinations and surveys with a view to this magnificent enterprize. During the war, it had been impossible for them to prosecute the objects of their appointment; but on the 8th of March 1816, they laid their surveys and estimates before the Legislature, accompanied by a report, which recommended the adoption of "such preliminary measures as might be necessary for the accomplishment of this important object." On the 21st of March, Mr. Jacob R. Van Rensselaer, from a joint committee, made a report to the house of Representatives, in favor of the immediate commencement of both canals, and introduced a bill for that purpose. On the 10th of April, Mr. Duer proposed a substitute, merely authorizing surveys and estimates ; but the bill, as finally adopted in

the house on the 13th of April, authorized the immediate commencement of a portion of the work.

On the 16th of April, this bill was taken up in the Senate. But two days of the session remained. On motion of Mr. Van Buren, that portion which authorized the immediate commencement of the work was stricken out, and the bill was confined to the procurement of more accurate surveys and estimates. In support of his motion, Mr. Van Buren said it was evident to his mind, that the Legislature did not possess sufficient information to justify the immediate commencement of the work; and fearing inconsiderate legislation might prejudice the measure, as a sincere friend to its success, he believed a temporary postponement to be the safest course. The amendment passed the Senate by a vote of twenty to nine and was finally adopted by the house.

On the 11th day of April, of the next subsequent year, a bill for the commencement of this great work finally passed the house of Representatives. It was immediately taken up for consideration in the Senate. It was strongly opposed by some gentlemen of great abilities, whose constituents would probably be affected in their local interests, and was sustained by Mr. Tibbets and Mr. Van Buren. The speech of the latter is thus introduced by the gentleman from whose report it is here extracted.*

* Wm. L. Stone, Esq. Editor of the Commercial Advertiser in New York, in the Appendix to Hosack's life of Clinton, p. 451.

"This was Mr. Van Buren's great speech of the session, and it was indeed a masterly effort. I took notes of the whole debate at the time, but being then young in the business of reporting, and this being the first time I had ever attempted to follow Mr. Van Buren, whose utterance is too rapid for an unpractised pen, and whose manner was, on that occasion, too interesting to allow a reporter to keep his eyes upon his paper, my effort was little more than a failure."

"Mr. Van Buren said he must trespass upon the committee, while he stated the general consideration which induced him to give his vote for the bill. It was a subject which had been so fully discussed, and upon which so much had been said, that he should deem it arrogance to enlarge. The calculations which had been made with respect to the probable expense of the canal, and the ways and means for raising funds, were fit subjects for consideration. But to do this he deemed himself incompetent. He must place great confidence upon the reports of the commissioners upon these points. Mr. V. B. here took a brief review of the measures adopted at the last session of the Legislature, in relation to the canal, when a bill similar to the one now before the Senate, was under consideration, and stated the reasons why he voted against the bill at that time. We then had no calculations made by the commissioners so minute as at present. Under these considerations, he conceived it his duty at the last session, to move the rejection of the whole bill relating to the commencement of the canal. It was done, and he had the satisfaction to find that most gentlemen have since united with him in his opinion. Now the scene is entirely changed. We at that time passed a law appointing new commissioners, and applying 20,000 dollars to enable them to obtain all the information possible. We now have the information, and we have arrived at the point, when, if this bill do not pass, the project must for many years be abandoned. His convictions were, that it is for the honor and interest of the state to commence the work at once; we are pledged by former measures to do it. Mr.

Van Buren here reviewed the proceedings of former legislatures upon the subject, during the years 1810, 11, 12, and 14, when, in consequence of the war, the law appropriating five millions for the canal, was repealed. He proceeded:—Since that period, new commissioners have been appointed, and new authority given, to examine the route for the canal, and report at the present session of the Legislature. A law authorising the commencement of the work has passed the popular branch of the Legislature, and unless we have the clearest convictions that the project is impracticable, or the resources of our state insufficient, you must not recede from the measures already taken. Are we satisfied upon these two points? We have had able, competent commissioners to report, and they have laid a full statement before us; we are bound to receive these reports as correct evidence upon this subject. In no part of the business have we looked to individual states, or to the United States for assistance, other than accidental or auxiliary. Mr. Van Buren here made some calculations relative to the funds. Lay out of view, said he, all the accidental resources, and the revenue from the canal, and in completing the work you will only entail upon the state a debt, the interest of which will amount to but about 300,000 dollars. He then stated the amount of real estate within the state now, and what it probably would be, if the canal were completed. The tax would not amount to more than one mill on the dollar, unless the report of commissioners is a tissue of fraud or misrepresentation, this tax will be sufficient, and more than sufficient, to complete the canal. We are now to say that all our former proceedings have been insincere, or we must go on with the work. The people in the districts where we are first to make the canal, are willing and able to be subjected to the expense of those sections. Mr. Van Buren contended that the duties upon salt, and the auction duties, were a certain source of revenue, and that these two sources of revenue would be abundant, and more than abundant, forever to discharge the interest of the debt to be created. Ought we, under such circumstances, to reject this bill? No, sir; for one I am willing to go to the length contemplated by the bill. The canal is to promote the interest and character of the state in a thousand ways. But we are told that the people cannot bear the burden. Sir, I assume it as a fact, that the people have already consented to it. For six years we have been engaged upon this business. During this time our tables

have groaned with the petitions of the people from every section of our country in favor of it. And not a solitary voice has been raised against it. Mr. V. B. said he had seen with regret the divisions that have heretofore existed upon this subject, apparently arising from hostility to the commissioners. Last year the same bill, in effect, passed the Assembly, the immediate representatives of the people; and this year it has passed again. This was conclusive evidence that the people have assented to it. Little can be done by the commissioners, other than to make a loan, before another session. The money cannot be lost—there can be no loss at six per cent. We have now all the information we can wish—we must make up our minds either to be expending large sums in legislation year after year, or we must go on with the project. After so much has been done and said upon the subject, it would be discreditable to the state to abandon it.

“He considered it the most important vote he ever gave in his life—but the project, if executed, would raise the state to the highest possible pitch of fame and grandeur. He repeated that we were bound to consider that the people have given their assent. Twelve thousand men of wealth and respectability in the city of New York, last year petitioned for the canal; and at all events, before the operation would be commenced, the people, if opposed to the measure, would have ample time to express their will upon the subject.”

The reporter adds: “When Mr. Van Buren resumed his seat, Mr. Clinton who had been an attentive listener in the Senate chamber, breaking through that reserve which political collisions had created, approached him and expressed his thanks for his exertions in the most flattering terms.”

It will be proper, here, to insert a brief description of Mr. Van Buren's manner as a speaker, at that period, sketched by the same able writer who furnished the above report; the author of it will, at least, be free from the charge of personal or political partiality.

"Mr. Van Buren is a very eloquent speaker; but the character of his eloquence is *sui generis*. We know of none of the mighty masters of the persuasive art, whom he has adopted for his model; and yet his manner is graceful, and animated when occasion requires, or impassioned when engaged upon an inspiring theme. He has a happy command of language, but his utterance is too rapid. His figure is small, and there is nothing peculiar in his person, excepting the fine formation of his head, which would afford an admirable subject for a craniologist. With manners affable and insinuating, he inspires his friends with the strongest attachment known to political ties; and though self-educated, his professional knowledge is such as to have placed him in the front rank at the bar, while his successful career in politics bears ample testimony to talents of an elevated order, and a tact in the management of men, and in the control of parties, without a living parallel."

As the great scheme of internal improvements in New York, was thus indebted, in part, for its first adoption, to his exertions, so, at every subsequent period, it received his efficient support. To enumerate the various occasions upon which this support was exhibited would swell this portion of the present narrative to an undue extent. It will suffice to subjoin the following general statement from the pen of the learned and amiable biographer of the illustrious Clinton.

"To the Hon. Cadwallader D. Colden, Martin Van Buren, Jacob Rutsen Van Rensselaer, James Lynch, Peter A. Jay, William Ross, and William A. Duer, the state owes a debt of gratitude for their patriotic exertions in behalf of the canal." * * "The Hon. Martin Van Buren and the other gentlemen just mentioned, were distinguished by their support of the legislative measures then adopted. Those gentlemen, then members of the Legislature, independently of their able, and in most instances, their uniform support of the canal policy, signaled

themselves by very important services in rescuing the bill from a state of jeopardy, even when it had been, to a certain degree, abandoned by its friends. By their personal and almost miraculous exertions, it was resuscitated and again restored to the approbation of the two houses of the Legislature."*

* Hosack's Memoir of De Witt Clinton, pp, 105-7.

CHAPTER VIII.

MR. VAN BUREN acquiesces in the first election of De Witt Clinton, as Governor. Opposes his re-election. Is removed from the office of Attorney General. Separates from Mr. Clinton and his political friends. His encomium upon Mr. Clinton's character at a meeting of the New York Congressional delegation in Washington.

In March 1817, De Witt Clinton was nominated to the office of Governor of the state of New York, by a republican convention, in the place of Daniel D. Tompkins, who had been elected Vice President of the United States. Mr. Van Buren acquiesced in this nomination, though it was contrary to his individual wishes and opinions. The distinguished talents of Mr. Clinton and his recent zealous efforts in promoting the great interests of the state, had so far won the respect and confidence of all parties, that there was comparatively little opposition to his election. During the first year of Mr. Clinton's administration, but little oc-

curred to disturb this singular coalition of opposite political parties. But in the difficult task of making his appointments, Governor Clinton gave great offence to the republicans who had yielded him their support. This difficulty widened into an open rupture; and a large majority of the republican party, Mr. Van Buren among their number, withdrew their support from Mr. Clinton's public measures and made preparation to oppose his re-election. The participation of Mr. Van Buren in this opposition, brought upon him the political vengeance of the council of appointment, who were devoted to the wishes of Mr. Clinton. Accordingly, in July 1819, he was removed from the office of Attorney General; the duties of which he had discharged, with ability, for more than five years. No other reason was assigned for this measure than the opposition of Mr. Van Buren to the Governor.

This violent act united the great mass of the republican party in opposition to Governor Clinton and bound them more strongly than ever to Mr. Van Buren. His long course of public services were remembered, especially his zealous support of the democratic cause during the gloomy period of the war, and his honorable co-operation, at a more recent period, with Mr. Clinton himself, in the great work of internal navigation. Accordingly, when the period of Mr. Clinton's public service drew towards a close, the most strenuous exertions were made by the republicans throughout the state, to prevent his re-election. Mr. Van

Buren naturally took the lead in their efforts ; and Daniel D. Tompkins, emphatically the man of the people, was prevailed upon to become the opposing candidate. Although Mr. Clinton's policy had already assumed the strongest anti-democratic character, yet the splendor of his abilities, his former public services, and his great personal weight of character drew temporarily to his support, no inconsiderable portion of the former democratic party. The contest was close and animated, and the result, for several days, was extremely doubtful. Mr. Clinton finally succeeded by a majority of 1457, out of 93,437 votes. This result sufficiently indicated the great change in public opinion, produced by the unexpected turn which he gave to his administration. The whole number of votes against him, on his former election, was but twenty-two more than his present majority.

Both houses of the Legislature and the Council of appointments, however, were decidedly democratic; and it was hence apparent that the rule had passed out of federal hands.

A restoration to the office of Attorney General was now tendered to Mr. Van Buren but was declined by him.

The writer is persuaded that he shall but speak the sentiments of Mr. Van Buren and all his political friends, in bearing testimony, in this place, to the learning, splendid talents and great public services of De Witt Clinton. On many public occasions, he gave expression to political sentiments which indicated, in the words of his

biographer, "a living faith in man's capacity for self-government and an unconquerable hostility to arbitrary and illegal power, in whatever shape it might appear." The promulgation of these sentiments brought upon him the hostility of the federalists, and won for him the high respect of the democratic party, who were disposed to transfer to him, the reverence, confidence and affection they had always entertained for his illustrious uncle, George Clinton. But "these political principles" as the biographer, before quoted, aptly remarks, "though recognized by the great body of our fellow citizens, are apt to be forgotten by our public men when elevated to office." Mr. Clinton's public course does not seem to have been so steadily regulated by them, as to have retained the confidence, the democracy were disposed to place in him.*

By the current of events which we have thus briefly related, Mr. Van Buren and Mr. Clinton were arrayed against each other as the distinguished and able leaders of opposite political parties. A most violent political contest ensued, and was sustained for years with unabated energy on both sides. To enter minutely into the history of these conflicts would be an ungrateful task, and

* The Roman historian's remark, with respect to the Emperor Galba, may be applied to Mr. Clinton: "major privato visus, dum privatus fuit et omnium consensu capax Imperii, nisi imperasset." *Tacit. Hist. lib. I. cap. 49.*

would extend this portion of the present history beyond its proper bounds. Besides, as the writer was then a resident of the state of New York, and not altogether a calm observer of the excitements of the day, he is not sure that he should be able to hold the pen of an impartial historian. It will suffice to say, that during these conflicts, Governor Clinton was twice driven into retirement and two of his distinguished supporters, Chief Justice Spencer and Judge Van Ness, both compelled to retire from the bench of the Supreme Court ; and on the other hand, Mr. Van Buren was twice removed from office, and was pursued for many years, with the most unrelenting party violence. It is a point of bright relief in this dark picture, that amid all the collisions of party violence, the two great antagonists retained their confidence in the personal integrity of each other, and each expressed his respect for the private uprightness and honesty of his rival. Such, at least, are said, on the best authority, to have been the sentiments of Governor Clinton, almost in the last moments of his life ; and the following affecting and eloquent testimony of Mr. Van Buren to the public services and private worth of his illustrious competitor, is publicly on record. At a meeting of the Senators and Representatives in Congress, from the state of New York, held at Washington, on the 19th of February 1828, to express their feelings on the sudden demise of Governor Clinton, Mr. Van Buren, then a member of the Senate, introduced some

appropriate resolutions with the following remarks.

“MR. CHAIRMAN—We have met to pay a tribute of respect to the memory of our late Governor and distinguished fellow-citizen, De Witt Clinton. Some of our brethren have been so kind as to ask me to prepare a suitable expression of our feelings; and I have, in pursuance of their wishes, drawn up what has occurred to me as proper to be said on the occasion. Before I submit it to the consideration of the meeting, I beg to be indulged in a few brief remarks. I can say nothing of the deceased, that is not familiar to you all. To all, he was personally known, and to many of us, intimately and familiarly, from our earliest infancy. The high order of his talents, the untiring zeal and great success with which those talents have, through a series of years been devoted to the prosecution of plans of great public utility, are also known to you all, and by all, I am satisfied, duly appreciated. The subject can derive no additional interest or importance from any eulogy of mine. All other considerations out of view, the single fact that the greatest public improvement of the age in which we live, was commenced under the guidance of his councils, and splendidly accomplished under his immediate auspices, is of itself sufficient to fill the ambition of any man, and to give glory to any name. But, as has been justly said, his life, and character, and conduct, have become the property of the historian; and there is no reason to doubt that history will do him justice. The triumph of his talents and patriotism, cannot fail to become monuments of high and enduring fame. We cannot, indeed, but remember, that in our public career, collisions of opinion and action, at once extensive, earnest, and enduring, have arisen between the deceased and many of us. For myself, sir, it gives me a deep-felt, though melancholy satisfaction, to know, and more so, to be conscious, that the deceased also felt and acknowledged, that our political differences have been wholly free from that most venomous and corroding of all poisons, personal hatred.

“But in other respects it is now immaterial what was the character of those collisions.—They have been turned to nothing, and less than nothing, by the event we deplore, and I doubt not that we will, with one voice and

one heart, yield to his memory the well deserved tribute of our respect for his name, and our warmest gratitude for his great and signal services. For myself, sir, so strong, so sincere, and so engrossing is that feeling, that I, who whilst living, never, no never, envied him any thing, now that he has fallen, am greatly tempted to envy him his grave with its honors.

“Of this, the most afflicting of all bereavements, that has fallen on his wretched and desponding family, what shall I say?—Nothing.—Their grief is too sacred for description; justice can alone be done to it by those deep and silent, but agonizing feelings, which on their account pervade every bosom.”

The resolutions, thus introduced, expressed, on behalf of the meeting, “their deep and sincere sorrow for a dispensation of Providence which had, in the midst of his usefulness, cut off from the service of that state whose proudest ornament he was,—a great man, who had won and richly deserved the reputation of a distinguished benefactor.”

The noble generosity of these sentiments, considering the source from whence they proceeded, will be appreciated by the reader.



CHAPTER IX.

MR. VAN BUREN's support of Rufus King for Senator of the U. S. His connection with the proceedings in Albany, and in the Legislature of New York, in regard to the Missouri question.

It may be proper to advert, in this place, to two or three particulars in the public life of Mr. Van Buren, which have been the subject of considerable remark. The first of these is his support of Rufus King for the office of Senator of the United States.

In the winter of 1819, the legislature of New York was divided into three distinct parties. As has already been remarked, a large portion of the democratic party had become dissatisfied with the public measures of De Witt Clinton, then Governor, and had seceded from the support of his administration. These seceders, with Mr. Van Buren at their head, formed one party in the Legislature. A respectable portion of the old federal-

ists had also separated from the friends of Mr. Clinton and constituted a second faction in the Legislature. The friends of Clinton, embracing both republicans and federalists, constituted the third division.

On the 2d of February 1819, the strength of these respective parties was developed in balloting for a Senator of the United States. John C. Spencer, a near relative of Mr. Clinton and supported by his interest, had *sixty-one* votes. Samuel Young, the candidate of the republican party friendly to the national administration, received *fifty-six* votes ; and Rufus King the federal candidate, who was at that time the actual incumbent of the office, received *thirty-eight* votes. At several successive ballotings, each party adhered to its own candidate, and as neither had a majority of the whole votes, no election was made during that session.

The great personal worth of Mr. King, his patriotic services as a member of the Convention which framed the Federal Constitution, and subsequently as Minister to England from the last year of General Washington's administration to the third year of Mr. Jefferson's, and finally, his zealous and honorable support of Governor Tompkins and of the national administration, during the most gloomy period of the war, had won for him the high respect and confidence of the democratic party. After the unsuccessful attempt to elect a Senator in 1819, Col. Young declined being any longer a candidate. The attention of his political

friends was then directed to Mr. King, whom they were strongly disposed to support, provided it could be done without suspicion of an improper coalition with his federal friends, and without hazarding the prospect of a democratic ascendancy in the legislature.

In December 1819, a pamphlet entitled "Considerations in favor of the appointment of Rufus King, to the Senate of the United States," was addressed to the republican members of the Legislature of New York, by "one of their colleagues." It was understood to be from the pen of Mr. Van Buren: and as it contains, not merely an exposition of the reasons for his support of Mr. King, but also discriminating views of the federal party, and a distinct expression of the great rule of action which has guided his political life, to wit, a scrupulous observance of the will of his constituents,—the following passages are extracted from it.

"To the Republican members, of the Legislature of the State of New York.

"A fellow member, who knows, and is personally known to most of you, who has, from his infancy, taken a deep interest in the honor and prosperity of the party to which you belong, and who, if he has ever erred in his labors to promote its best interests, has erred from defect of judgment and not from a want of devotion to the cause, ventures to address you on the subject of the choice of Senator to represent this state in the Legislature of the Union.

"The state of parties, the character and standing of the most prominent candidate for your favor, the general aspect of political affairs, and a variety of concurring circumstances, render the subject one of conceded delicacy, and not entirely free from difficulty.

"It is, notwithstanding, one on which it will be our duty soon to act; and all experience demonstrates, that nothing is so well calculated to lead to a judicious exercise of power, as a free, frank, and unrestrained discussion of the subjects of it; and nothing, certainly, better comports with the character, or is more congenial to the feelings of freemen, than that those discussions should be attended with all possible publicity. It is with those convictions, and upon the impulse of such feelings, that this examination is undertaken.

"When this question was presented to the Legislature at their last session, the names of several of our friends, who are rich in the esteem and confidence of republicans, were spoken of, and one was actually voted for to fill the existing vacancy. It is satisfactorily ascertained that all those gentlemen, for reasons which it is unnecessary here to state, but which are of a nature reflecting upon them the highest honor, which evince an entire devotion to our cause, and entitle them to a continuance of our best opinion, are unwilling to be regarded as candidates for the station, and are desirous that our attention should be directed to another quarter.

"In consequence of the general understanding, which has obtained, as to the views of the gentlemen of whom I have spoken, and from other causes, the only name which has, for some time past, been held up to public view, and occupied the public mind, as connected with the subject, is that of RUFUS KING,—in whose favor there has been, apparently, a spontaneous, and, certainly, a very extensive expression of public sentiment.

"Having learned from experience, to place almost implicit confidence in the general justice and ultimate wisdom of the predominant sentiments of the republican party, I have felt it my duty scrupulously to observe the indication of these sentiments on this interesting subject; and I am entirely satisfied that I am not mistaken when I say, that the republicans of this state think and feel that the support of Mr. KING, at this time, would be an act honorable to themselves, advantageous to the country, and just to him; and that the only reluctance which they have to a public avowal of their sentiments in his favor, arises from the commendable apprehension that their determination to support him, under existing circumstances, might subject them to the suspicion of having become a party to a political bargain, to one of those sinister commutations of principle for power, which they think

common with their adversaries, and against which they have remonstrated with becoming spirit.

"I have no hesitation in declaring my sentiments to be in unison with those which I believe generally to prevail among the republicans of the state; and I cannot but avow my conviction that this apprehension, which evinces an honorable solicitude to avoid even the imputation of the errors of their opponents, is without adequate cause, and can be fully obviated.

"Although the rule may, possibly, in some instances be carried too far, it is certainly true, that the conduct of public men, who were in active life, or in a situation to be so, during the last war, has been, and will, unavoidably, long continue to be the test of their claims to public confidence and support.

"The federalists of that day may justly, and, by the historian of the time, will probably be divided into three classes; the first, consisting of those who, influenced by strong predilection for the enemy, and instigated by the most envenomed malignity against the administration of their own government, adopting "rule or ruin," for their motto, exercised an industry and perseverance worthy of a better cause, to paralyze the arms of their own government, and encourage the hopes of the foe.

"The second class was composed of a very numerous and respectable portion, who, inured to opposition, and heated by collision, were poorly qualified to judge dispassionately of the measures of government; who, deemed the declaration of war impolitic in the then state of the country, and were not as well satisfied, as subsequent reflection has rendered them, of its justice and indispensable necessity; who were deceived, too, by appearances, and by the bold and confident denunciations of their leaders of the first class, into a belief that their own government was partial to France and averse to peace with Britain, and who from the causes I have enumerated, aided by that strong desire to supplant their political opponents, which is common to all parties, were induced to make all the opposition to government which they lawfully could, within the pale of the constitution.

"In the third class, are included all those who, entertaining a correct sense of their country's rights, a lively sensibility for her wrongs, and a suitable spirit to defend the former, and redress the latter, rose superior to the prejudices and passions of those with whom they once act-

ed, and throwing down the weapons of party warfare, enrolled themselves under the banners of their country.

"Those whom I have first designated, displayed their principles, and gave earnest of their designs, by assisting at, or abetting, the ever memorable convention at Hartford, and those preceding efforts of factious opposition, which were connected with it. The rising indignation of the American people, however, retarded the execution of their designs until peace put an end to their prosecution. Their labors led to the same results with those of their *prototypes* of the revolution; and as their motives were less pure, and their conduct less excusable, they have reaped a more abundant harvest of public obloquy and disgrace.

"Many of those included in the second class, whatever may have been the extent of their delusion at the moment, and however strong the infatuation by which they were blinded, would, at all times, have shrunk from the abandonment of the acknowledged interests of their country, and have, subsequently, embraced every opportunity to testify their devotion to the public interest. There is, moreover, good reason to believe, that they will all, in due season, be found to have embarked in the same cause with the republicans of the state, and of the union. Nor have we failed, and, I hope, we never shall fail, in becoming liberality of sentiment, towards that portion of our fellow citizens, or in exercising that respectful deference for the freedom of opinion, which should ever characterize the conduct of men, who, actuated by pure motives themselves, are sensible of "the safety with which error of opinion may be tolerated when reason is left free to combat it."

"As to the merits of that description of federalists, who are embraced in the third class, there has not been, nor can there ever be a diversity of opinion among us. If we look back to that period which, a second time, 'tried men's souls,' as the proudest of our lives, they also have reason to exult in the recollection of the parts they respectively acted in those interesting scenes.

"It is true, they have not the merit of advising to the commencement of the war, a war by which the fame, the honor, the true interests of our common country, have been so much advanced; but that circumstance alone ought not to impair their claims to the respect and confidence of their fellow citizens.

"It was fully compensated by the alacrity with which they lent their aid to an administration which had so recently been the object of their warmest opposition, the moment they found the question to be between their own country and a foreign foe. They acted, as it had been fondly hoped the whole American people would have acted: nor were the administrations of the General and state Governments, at the close of the war, backward in bestowing the proudest testimonials of their approbation and respect, on those whose conduct had been thus meritorious.

"It is true, that, in so doing, they have in some instances been deceived and disappointed, in selecting, for high public stations, men who have not that stamina of character they were supposed to possess; but who, rendered giddy by their sudden elevation, and forgetful of the sources of that power by which they ascended, will soon fall, with the master spirit in whose legion they are enrolled, 'never to rise again.'

"These are circumstances, however, which can, at most, produce a transient regret, for the folly and weakness of these infatuated men. Such consequences are not always to be avoided; but they are susceptible of easy and prompt correction. They do not tend, in the least, to impair the high credit which is justly due to the republicans of the state and Union, for the course they adopted in regard to the persons now in question. That course had for its object, not the particular benefit of these individuals only; but was meant to exemplify the general justice of our policy to them, and to shew the rest of our countrymen, that whilst we loudly and inexorably condemned the remissness of a portion of our fellow citizens, in discharging the great duties they owed to their country, we dealt out justice with an even hand, and were as ready to applaud as to condemn.

"There has been, however, one exception in this liberal policy, and it is an exception of no ordinary character. It exists in the person of Rufus King.

"The dark cloud which overspread our political horizon, in the fall of 1814, struck, with dismay and terror, some of the firmest of our patriots. The disasters which had befallen us, the difficulties which beset, and the dangers which threatened our country from every quarter, have made impressions too durable to be soon effaced. The causes which jeopardize, and the exertions which preserve the liberties of a nation, can never, while she is

worthy of their enjoyment, cease to be a subject of the keenest solicitude, and most grateful recollection of her sons. These memorable events will long continue to occupy the minds, and employ the pens, of our ablest and best men.

"While enjoying a season of peace to which the nations of Europe are strangers; while advancing in wealth, population and grandeur, with a rapidity without a parallel in the history of civilized man; while our individual happiness and prosperity kept pace with that of our beloved country, and all combined to render us the envy and admiration of the world; in those halcyon days, when we knew war but by its distant echo, and the advantages our country derived from the sanguinary conflicts of Europe, we felt that our country was not only strong in its physical force, but inexhaustible in its resources, and safe in the patriotic devotion of all her citizens."

"The events of that memorable period awoke us, however, from those flattering dreams, and dissipated those dangerous delusions. When we expected to have found ourselves united, we were a divided people; when the exigencies of the country demanded all her resources, both of men and money, her public coffers were kept empty and her armies unrecruited, by the ruthless efforts of faction.

"At this momentous crisis, which applied the touchstone to the hearts of men, when many of the stoutest were appalled and the weak despaired of the republic, Mr. King was neither idle nor dismayed. His love of country dispelled his attachments to party. In terms of the warmest solicitude and in strains of the most impassioned eloquence, he remonstrated in his correspondence with the leaders of the opposition in this state and in the east, on the folly, the madness, and the mischief, of their course; he contributed largely of his means to the loans to government;—he infused confidence into the desponding, and labored to divest the timid of their fears;—he sought Governor Tompkins, to whom, from the warmth of his devotion to his country's cause, and from the plenitude of his responsibility rather than of his powers, every eye was directed, and to him Mr. King communicated the patriotic ardor with which he was himself animated.

"The purport and object of his interesting interview with the Governor, is thus described by the latter: 'Venerable and patriotic citizens, such as Col. Rutgers, Col. Willet, Gov. Wolcott, Mr. King and others, animated

me to the greatest efforts ; the latter gentleman, in an interview with me, was peculiarly impressive—he said ‘that the time had arrived when every good citizen was bound to put his all at the requisition of government—that he was ready to do this ; that the people of the state of New York would and must hold me personally responsible for its safety.’ I acquainted him with the difficulties under which I had struggled for the two preceding years, the various instances in which I had been already compelled to act without law or legislative indemnity, and urged, that if I should once more exert myself to meet all the emergencies and pecuniary difficulties with which we were pressed, I must inevitably ruin myself. ‘Well, sir, (added he, with that enthusiasm which genius lends to patriotism,) what is the ruin of an individual compared with the safety of the republic ? If you are ruined, you will have the consolation of enjoying the gratitude of your fellow citizens ; but you must trust to the magnanimity and justice of your country, you must transcend the law, you must save this city and state from the danger with which they are menaced, you must ruin yourself if it becomes necessary, and I pledge you my honor that I will support you in whatever you do.’ Having done all in his power to induce to exertions at home, Mr. King repaired to his post in the Senate of the United States, and in that body zealously supported the prominent measures of the administration to sustain the country in the severe struggle in which she was engaged. He embraced every suitable opportunity to keep Governor Tompkins, (with whom he maintained a regular correspondence,) advised of every fact and circumstance which might be supposed to have a bearing on the conduct of the war, its prosecution by the enemy, and the probability of its continuance or termination.

“The advantages which resulted from the part which Mr. King then took, were by no means inconsiderable ; it served to encourage Governor Tompkins to persevere in his exertions, exertions which redounded so much to the honor of the state, and so essentially advanced the interests of the nation. It served to induce the corporation of New York, and some of the banks, who were then in the adverse interest, to comply with the requests of Governor Tompkins, and make their respective loans to the government, on receiving his private responsibility, and public securities, for their repayment. It served, moreover, in some degree to retard the unwearied efforts of the opposi-

tion, by developing their motives, and bringing shame on their measures.

"Such was the conduct of Mr. King, in the times of which I have spoken, and such are his first claims on republican confidence and support. I know nothing of the republican character, nothing of the views and sentiments of men, with whom I have been so closely allied, if a consideration of the facts and circumstances I have detailed, has not already led to a spontaneous and united wish to support Mr. King for the Senate, if that support can be given without subjecting them to the suspicions they so justly deprecate. That it can, I hope to demonstrate; but before I do so, I must solicit a farther continuance of your indulgence, whilst I respectfully submit to your consideration, additional reasons why his appointment, at this time, would be politic and just; and whilst, too, I obviate some of the objections which honest men may apprehend, and which will, doubtless, be suggested by faction.

"His talents, his integrity, and fitness for the station, are not questioned. There are, however, circumstances in his life and character, so intimately connected with this question, as to entitle them to particular consideration and remark.

"The struggle which gave birth to our nation, must ever be regarded as one of the most important and interesting eras the world has ever witnessed.

"History records no event which called into action a race of statesmen, equal in all the splendid virtues which adorn and give celebrity to the human character; and it is a fact, honorable to our nature, that of the long list of patriots and sages, who, at the hazard of all that was dear to man, signed the Declaration of Independence, and of those who framed the great charter of our liberties, there has not been one who, in after life, has fallen from the eminence to which, by his connection with those events, he was raised; or has in the least impaired the character he thus acquired. Those whom the ravages of time have yet spared to their country, are, every where, honored and respected; and those whose deaths we deplore, who are now numbered with 'the spirits of just men made perfect,' have descended to the tomb, accompanied by a Nation's tears, and blessed with a Nation's gratitude.

"It is, certainly, true, that in the various contests for power, which are past, revolutionary merit has not al-

ways commanded that deference, and received that support, which might have been reasonably expected, and perhaps justly claimed. It is not my intention to call in question the propriety of the course which has, at various times, been pursued in regard to them. There, doubtless, have been occasions when the preferences which have been given to others, were both just and proper; but it has always been a favorite sentiment of my heart, that, all other things equal, the merit of which I am speaking, ought to give a decided preference to its possessor. I cannot but think that this sentiment is common to us all, and that the desire to testify our gratitude, by availing ourselves of the experience and fidelity of the men of the revolution, as far as it can be done with safety and with honor, is as universal as it is just.

"Mr. King not only took an active part in the closing scenes of the revolution, but he was a member of the convention which framed the constitution of our General Government, and one of the committee to whom the final draft of it was referred.

"As early as the year 1796, Mr. King was appointed, by General Washington, minister to the court of St. James. He represented our government at that court during the last year of that truly great and good man's administration, and throughout that of Mr. Adams; and such was his understanding of, and his attention to, the great and leading interests of the country, that notwithstanding the party violence of the times, he was continued by the illustrious head and founder of our party, Mr. Jefferson, for the first two years of his administration, and until Mr. King solicited his own recall. With the exception of a single case, growing out of individual concerns, and of limited operation, the merits of which are before the public, and have been amply discussed, the great duties of his station were discharged in a manner highly satisfactory to all classes of his fellow citizens. I know well the fears which existed in the minds of many honest men in the country, that his long residence in England had impressed him with undue partialities for that nation; a belief which, doubtless, derived much force from the mutual crimination and recrimination, of 'French influence,' and 'British influence,' common to the times, and, in a great degree, springing from the overheated agitations of party. I claim no exemption from their influence; but whatever may have been the feelings or prejudices of that early period, his recent and splendid exer-

tions in the Senate of the United States, to improve our navigation laws, and to protect our commercial rights and interests, against the encroachments of the British government; the success which has attended those exertions; the wisdom which was displayed in their adoption, and the strong interest they have excited in Great Britain; the patriotic course he pursued in our recent contest with that power; the general tenor of his political conduct for the last five years, and the fact, *that he has secured, and enjoys, the full confidence of the men who compose the present administration of the general government,* and who have had the best possible opportunity to judge of his motives and his conduct, and in whose integrity and discernment we may safely repose; these, together with other circumstances, have satisfied me, that the unfavorable impressions which, in that respect, in common with the great body of the republicans of the state, I have heretofore indulged against him, were unjust and unfounded, and as such, I cheerfully dismiss them.

"The great advantage which would, probably, be derived to the state and the Union, from the appointment of a statesman, who, to splendid talents, adds such collateral advantages, and whose views are in unison with those of the General Government, must be obvious to you, and cannot fail to receive at your hands, all the weight to which they are so justly entitled.

"I have deplored the violence of party, and lamented the injurious consequences which have resulted from its indulgence. It is possible that I am not entirely free from the infirmity I condemn, and I fear that what I am about to state, may tend to impress that belief. I know, however, of but one true course in such matters, and that is, to avow, with frankness, sentiments which are entertained with sincerity, and to trust to their justice for their success."

The writer then proceeds to say that, if he had not reason to believe Mr. King to be decidedly with the republican party, in their opposition to Mr. Clinton, he should promptly and zealously oppose his appointment; and that the want of clear information on this point, and also with respect to

the former election of Mr. King, had occasioned some embarrassment in regard to his support, by the democratic party, the preceding winter. He then adds :

“ Under these circumstances, we selected one of our old and tried friends as the object of our support, and thereby abstained from a course, as to which we had not the necessary information to enable us to act with safety to ourselves and justice to our constituents.

“ The state of parties, too, rendered it reasonably certain, that without the acquiescence of our friends, there would be no choice, and the situation of things admitted of a continuance of the vacancy, without great public prejudice, until the ensuing session. Thus an opportunity was afforded to the republican members, not only to defer a final decision on the question until the wishes of the people could be known on the subject, (at all times an object of solicitude with them, a sentiment just and proper in itself, and one which it is hoped they will always revere, notwithstanding the jeers of the political upstarts of the day,) but also to wait for a subsequent development which would either confirm their doubts or remove the cause of them.”

“ A few words more, on the only remaining subject which I have proposed to examine, and I close an appeal which has already been extended farther than was contemplated, or may, perhaps, be proper. It is certainly very extensively believed, that our legislative halls have in repeated instances been made the theatres of the most exceptionable and unprincipled political bargains and coalitions; of coalitions in which men acted, not from the honest dictates of their consciences and with a single eye to the public interests, but from the unworthy motives of personal aggrandizement, not only disconnected with the public good, but in many instances in direct hostility against it. It is equally true, that in proportion as those charges have been credited abroad, the character of our state has sunk in the estimation of our sister states. It is not my intention, at this time, to enter into an investigation of the truth of these charges. It will, doubtless, soon become necessary to probe them, as well as other transactions of a deeper cast, and still more injurious in their effects upon our public character, to their inmost

recesses; to separate the innocent from the guilty; to vindicate the great body of our citizens from the charge of participating in the profligacy of the few, and to give rest to that perturbed spirit which now haunts the scenes of former moral and political debaucheries—to the end, that this great and otherwise flourishing state, may no longer be retarded in her march to that respectability and influence, to which she is so eminently entitled. But of this hereafter.

"It is, as I have already stated, apprehended by several honest men, whose devotion to the republican cause, and whose good opinion I hold in the highest regard, that the support of Mr. King, at this time, might expose us to the suspicion of being influenced in our determination; by the single view of securing the co-operation of a sufficient number of federal members to effect the various legislative objects at the next session, for which parties generally, as it is natural they should, feel considerable solicitude.

"This is the matter fairly and plainly stated. Now, strong as my desire is that we should confer on Mr. King our support; sensible as I am of the tendency of such a measure, to repel and to put to shame the volumes of calumny and scurrility which have been heaped on us, by those who deceive themselves with the hopes of breaking down the free spirit of a great party, and grateful as I know it would be to the feelings of distinguished republicans in our sister states, still, if I believed there was adequate cause for such apprehensions, *I would on that ground forego its adoption.* For it is not so important that we succeed soon, as it is that, when we do so, we proceed in a manner the most unexceptionable. But I know well that those fears are groundless.

"Our party, in the first place, is not liable to suspicions of this kind. We have throughout sustained a character which has, and will continue, to exempt us from them. We are not a '*personal party*.' We have no individuals amongst us, who claim and exercise the right of stipulating for our acts, nothing is done for us, that is not done by the will of the majority, and which is not well understood to be in unison with the general sentiments, and consonant to the wishes of the people. With a party so organized, and thus acting, motives so justly deprecated can seldom, if ever, operate, and, of course, the suspicion of their existence is not likely to arise."

Mr. King was elected at the following session of the Legislature, (February 1820,) by the unanimous vote of the Senate, and with but three dissenting votes in the house of Representatives. It will be seen by the extracts, here given, that the support of Mr. King was yielded on grounds in no way connected with the questions which had recently been agitated, with regard to the admission of Missouri into the Union.

There are few acts in the public life of any statesman, more liberal and high-minded than Mr. Van Buren's support of Mr. King; yet few have ever been assailed with greater violence and unfairness. But the utmost efforts of his political opponents have never been able to attach the slightest suspicion to his conduct, or to detect the feeblest indication of indirect motives in the whole transaction. No public or private document has ever been adduced to show that the true reasons, and the only reasons, for the course which was taken by the republican members of the Legislature on that occasion, were not contained in the pamphlet whose substance is above given. An extract from what purports to have been a private letter of Mr. Van Buren to a political friend, has been laid before the public. Whether this extract is authentic or false is unknown to the present writer. But as it is the only document, of any kind, which either the public scrutiny or the private treachery of the enemies of Mr. Van Buren has been able to adduce, it is here subjoined, and its consistency with the views above taken is left

without comment, to the judgment of the reader.

“I should sorely regret to find any flagging on the subject of Mr. King. We are committed to his support. It is both wise and honest ; and we must have no fluttering in our course. Mr. King’s views towards us are honorable and correct. The Missouri question conceals, so far as he is concerned, no plot, and we shall give it a true direction. You know what the feelings and views of our friends were, when I saw you ; and you know what we then concluded to do. My ‘considerations’ &c. and the aspect of the Albany Argus, will shew you that we have entered on the work in earnest. We cannot, therefore, look back. Let us not, then, have any halting. I will put my head on its propriety.”

In the winter of 1819–20, a public meeting of the citizens of Albany was convened to express their opinions on the extension of slavery beyond the Mississippi. Mr. Van Buren has been censured for the measures which resulted from this meeting. His connection with the whole transaction will therefore be briefly stated. He had no agency whatever, in commencing the original meeting and did not attend it. The only step taken at that meeting was, to appoint a committee to call a more general convention of the citizens. His name was placed on that committee in his absence, and his permission was afterwards obtained to retain it. When the large meeting was held, Mr. Van Buren was absent from Albany on professional business. Sundry resolutions were adopted, and a further committee appointed to prepare

a memorial to Congress. The memorial was immediately reported to the meeting and adopted. Mr. Van Buren's name had also been placed on this latter committee, though he was not present; but on his return to the city, he declined signing the memorial or co-operating with the committee in transmitting it to Congress; as he disapproved of the sentiments contained in the resolutions. His refusal called forth a letter from Mr. Jones, by whose agency his name had been placed on the committee. The following is a copy of that letter together with Mr. Van Buren's reply.

"ALBANY, Jan. 19, 1820.

"*To the Hon. M. Van Buren:*

"SIR: I am informed that you declined signing the resolutions which were sent to Washington, upon the subject of the Missouri Question, upon the ground that you never authorized your name to be used as one of the committee on that occasion.

"Before any steps were taken on the subject, I called upon you myself to learn if you was willing to be one of that committee. You replied not: that you was so much occupied that you could not attend to it—I remarked that there were enough to do the business, and that we only wished for your name—in answer to which you observed, that you had no objection to our making use of your name. If you have forgotten this conversation, Mr. Duer, who was present, will undoubtedly be able to refresh your memory. I think that your refusal to sign your name should have been grounded upon other reasons, than want of authority to use it.

"You must be sensible, sir, that I care nothing about this affair, any further, than that it places me in an unpleasant situation; and I presume, in justice to me, you will retract the assertion, that you did not authorize the use of your name.

"Respectfully yours, &c.

"HENRY T. JONES."

"P. S. I should call on you, but you are so occupied that it is difficult to find you disengaged."

"SIR: You had my permission to use my name as a committee to call a meeting of our citizens to express their opinion on the Missouri Question, and the propriety of your doing so has not been questioned by me. You surely cannot suppose that the use of my name for that purpose, imposed on me an obligation to sign whatever memorial might be agreed upon by the meeting. Being out of town when it was held, and having no hand in forming or adopting the memorial, I declined signing it. My reasons for doing so, further than you are concerned in calling the meeting, I presume it is not your intention to inquire into.

"Yours respectfully,

"M. V. BUREN.

"Jan. 20th, 1820.

"HENRY T. JONES, Esq."

This is an accurate account of Mr. Van Buren's whole connection with the meeting in Albany, and cannot in any particular be impugned. It will require no small degree of ingenuity to find, in his part of the transaction, any ground of censure.

The attention of the Legislature of New York was called to the question of admitting Missouri into the Union, with the right to hold slaves, in the message of Governor Clinton, at the opening of the session, in January 1820. An expression of their opinion was earnestly recommended. In compliance with this recommendation, the house of Representatives adopted a resolution, instructing their Senators and requesting the Representatives of the state in Congress, "to oppose the admission, as a state in the Union, of any territory not comprised within the original boundary of the United States, without making the prohibition of slavery therein, an indispensable condition of admission." The Senate concurred in this resolu-

tion without division or debate, and among them Mr. Van Buren; though it was not brought before the Legislature by his agency. Still he must be regarded as having concurred, at that time, in the sentiment of the resolution thus adopted by the Legislature.

CHAPTER X.

MR. VAN BUREN is elected a Senator of the United States. His participation in the Convention to amend the Constitution of New York. Speech on vesting veto power in the Governor. On the length of Governor's tenure of office. On prefixing a bill of rights. On the Elective franchise. Vote on admitting colored people to be electors. Speech on the appointment of Justices of the Peace. On the re-organization of the Supreme Court so as to eject the incumbents.

On the 6th day of February, 1821, Mr. Van Buren was appointed, by the Legislature of New York, a member of the Senate of the United States. In the house of Representatives he received *sixty-nine* votes and Nathan Sanford *fifty-two*; in the Senate the majority for Mr. Van Buren was *eight*. The Clintonians, together with the federalists, voted for Mr. Sanford, an expression of their confidence for which, it is believed, that gentleman was not remarkably grateful.

Before attending Mr. Van Buren to this dignified theatre of action, it will be proper to examine his exertions as a member of a public body in his native state, charged with the most solemn and responsible duties. This public body was a convention to amend the Constitution of the state.

The constitution of the state of New York was adopted in 1777, and received some amendment in 1801. It was, however, disfigured by many defects, especially with regard to the mode of appointing to office, the revision exercised by a Council over the acts of the Legislature, and the limitations imposed upon the right of suffrage. These obnoxious provisions became so apparent, during the party collisions which preceded the year 1821, that the Legislature in its session that year, provided, by law, for the election of delegates to a convention for the revision of the constitution. The measure was warmly advocated by Mr. Van Buren, especially with reference to the extension of the right of suffrage.

Accordingly, the convention was opened on the 28th day of August 1821. Mr. Van Buren, then United States Senator elect, was, unexpectedly to himself, returned as a member of the convention by the republicans of Otsego County. The convention was not limited, either in the nature or extent of its amendments, which however were only to become a part of the constitution, by the subsequent assent of the people.

Public expectation was highly raised with regard to the results of this convention, which em-

braced some of the most venerable, distinguished, and active men in the state. It appeared to be their duty, almost to fix anew, the principles of government for a free people. The magnitude of the changes finally proposed even exceeded all previous anticipation. The executive, judicial, and legislative departments were all remodelled; and the appointing and revisory powers were placed in new hands. Several important miscellaneous alterations were made, and the right of suffrage very greatly extended.

During the discussions which resulted in these amendments, all the great interests of a free people passed under review; the principles of government were largely debated; the political history of the state was retraced, and the foundations of its civil, religious, and social institutions underwent examination. In short, the convention exercised the right which had been entrusted to them by the sovereign people, of offering to their acceptance a constitution which was to form the basis of their government, and the great character of their rights and liberties.

The active agency of Mr. Van Buren in originating this convention, avowedly for the extension of popular rights; his conspicuous station, as Senator elect of the United States; his prominence as the leader of a great party; his high reputation for profound legal knowledge; his political experience and information; and the confidence reposed in his integrity and talents, conspired to fix

public attention upon his conduct and to devolve upon him a heavy responsibility.

It will be impossible to embody in the present narrative, a complete account of his laborious services in this convention, or, at a subsequent period, in the Senate of the United States. The writer will, therefore, aim to indicate his leading measures, and the part he took on all questions of importance, subjoining such extracts from his speeches and propositions as seem to illustrate his views of the general principles of political science, as well as the reasons of his course in each important matter. These extracts will enable the reader to form an opinion of his discretion, candor and usefulness, and of the manner in which he was accustomed to discuss questions of political importance.

They will, however, but imperfectly indicate the real amount of his laborious participation in the business of the convention. It will be impracticable to follow him through the tedious forms and practical details, indispensable to the operations of any regularly organized deliberative body; nor is it possible to display his assiduous industry thorough research, and indefatigable efforts in the committee-room. He never detained the convention with speaking except when compelled by necessity, and although, in that enlightened assembly, his experience in public affairs and his unrivalled political influence, gave him the foremost rank, his conduct was rather distinguished for its moderation, dignity and patriotism, than by any

over-bearing exercise of the power conferred by his favorable position. The proceedings of the convention have been laid before the public in a separate volume, and whoever refers to it, will find the speeches of Mr. Van Buren to be among the ablest it contains. The clearness and comprehensiveness displayed in his discussions of the great principles of government; the soundness, justice, and moderation of his views of the important questions which arose in the convention, will not fail to impress the reader with the most favorable opinion of his integrity and talent.

The business of the convention was brought forward, by referring each important portion of the constitution to a committee, with directions to report the alterations and amendments it might seem to them to require. That portion which related to "the power of appointment to office, and the tenure thereof," was referred to a committee of seven, of which Mr. Van Buren was chairman.

The first occasion upon which Mr. Van Buren expressed his views, at length, in the convention, was upon a report of the committee on the revisory power, proposing to vest in the Governor, the right to return a bill which had passed both houses, and requiring it to be re-passed, in each house, by a majority of two thirds, before it should become a law. The provision was nearly in the words of that article of the constitution of the United States, which confers upon the President the veto power. The exercise of that power, by

the President of the United States, on two of three occasions of great interest, during the last six years, has turned public attention to an examination of its utility and the proper method of its exercise.

The views of Mr. Van Buren on this important question deserve, therefore, particular attention; and the speech here subjoined, not only fully explains these views, but embraces an able discussion of some of the most important principles of government.

Mr. Van Buren said: "I had flattered myself, Mr. Chairman, that the Convention would have adopted the revisory power proposed by the select committee, with the same unanimity with which they determined, on Tuesday, to expunge the third article of the constitution, and to separate the judiciary from the Legislature. But in that expectation I have been disappointed. Notwithstanding the unanimous recommendation of the select committee, and the able manner in which it has been supported, a powerful opposition to it appears to exist. A proposition has been made by the gentleman from Dutchess (Mr. Livingston) which, from the respectability of the source from whence it emanates, the precedents on which it is founded, and the talents and character enlisted in its support, is entitled to the highest consideration. I shall, therefore, proceed to the discussion, with all the brevity which the importance of the subject will admit, and all the simplicity of which I am capable.

"In the course of that discussion, the first question for our consideration, is, whether it is wise and proper that a restriction of any kind should be placed upon the legislative power? On that subject it would seem that little doubt could remain. That a check of some kind is necessary, is a principle that has received the sanction, and been confirmed by the experience of ages. A large majority of the states in the Union, in which, if the science of government be not better understood, its first principles are certainly more faithfully regarded than in any other country, have provided restrictions of this sort. In the

constitutions of the freest governments in Europe, the same principle is adopted. It is conceded in both the propositions before the committee.

"The one imposes the restriction by requiring two-thirds of the Legislature to pass a bill which may have been returned ; and the other, by requiring not only a majority of the members *present*, but a majority of all the members elected. It would seem, therefore, that on the general principle that a restriction is proper, we are all agreed ; and the question arises, is the amendment proposed by the gentleman from Dutchess more desirable, and better adapted to perform the office intended, than the proposition introduced by the committee ? To arrive at a just conclusion on this subject, it will be necessary carefully to consider the design of such a check, and the advantages which are expected to result from it. Its object is, first, to guard against hasty and improvident legislation : but more especially, to protect the executive and judicial departments from legislative encroachments. With regard to the first of these objects—the prevention of hasty and improvident legislation—the system of every free government proceeds on the assumption that checks, for that purpose, are wise, salutary, and proper. Hence the division of all legislative bodies into distinct branches, each with an absolute negative upon the other. The talents, wisdom, and patriotism of the representatives could be thrown into one branch, and the public money saved by this procedure ; still experience demonstrates that such a plan tends alike to the destruction of public liberty and private rights. They adopted it in Pennsylvania, and it is said to have received the approbation of the illustrious Franklin ; but they found that one branch only, led to pernicious effects. The system endured but for a season ; and the necessity of different branches of their government, to act as mutual checks upon each other, was perceived, and the conviction was followed by an alteration of their constitution. The first step, then, towards checking the wild career of legislation, is the organization of two branches of the Legislature. Composed of different materials, they mutually watch over the proceedings of each other. And having the benefit of separate discussions, their measures receive a more thorough examination, which uniformly leads to more favorable results.—But between these branches, as they are kindred bodies, it might sometimes happen that the same feelings and passions would prevail—feelings and passions which might

lead to dangerous results. This rendered it necessary to establish a third branch, to revise the proceedings of the two. But as this revisory power has generally been placed in a small body, or a single hand, it is not vested with an absolute, but merely with a qualified negative. And our experience has proved that this third provision against hasty and unadvised acts of the Legislature, has been salutary and profitable. The people of this state have been in the habit of looking at the proceedings of the Legislature thus constituted, and they have been accustomed to this revisory power. Their objections have never been that this revisory power existed, or that it was distinct from the Legislature; but they do complain that it is placed in improper hands; in the hands of persons not directly responsible to the people, and whose duty forbids all connection with the Legislature. I am one of those who fully believe in the force and efficacy of that objection.

"The Council of revision was disposed of by the vote of Tuesday, and I could have wished that all further discussion on the subject of its merits or demerits had been dispensed with; but a different course has been pursued. From the explanations of the chairman of the select committee, the public would infer that we voted for the abolition of the Council of revision from feelings of delicacy and tenderness to the judiciary and to shield them from unjust calumny. Sir, my vote was not given from any such motive. I will not vote for the abolition of any article of the constitution out of kindness to any individual. I should be ashamed to have my vote go forth to my constituents upon any such grounds. The Council of revision has not answered the purposes for which our fathers intended it. This is the ground and motive upon which my vote was given. I object to the Council, as being composed of the judiciary, who are not directly responsible to the people. I object to it, because it inevitably connects the judiciary—those who, with pure hearts, and sound heads, should preside in the sanctuaries of justice, with the intrigues and collisions of party strife; because it tends to make our judges politicians, and because such has been its practical effect. I am warranted by facts in making this objection. If such had not been the case, I should not have voted for expunging the third article of the constitution.

"I highly esteem the honorable gentleman from Oneida, (Judge Platt,) who yesterday thought it his duty to

raise a discussion upon the merits of the Council. I regret that he has done so. [Judge Platt rose and stated, that that part of the subject was distinctly introduced by the gentleman from Dutchess, (Mr. Livingston) and that he felt it his duty to reply. It was *that* gentleman who had given this direction to the debate.] MR. VAN BUREN. I was not aware of that fact, but it in no sense changes the character of what I feel it my duty to say. No man on this floor is more averse to a discussion on that subject than I am ; but since the example has been set I shall proceed. I respect the members of the Council of revision, and for their sakes, this debate should never have been introduced. It will become our duty to revise that part of our constitution relating to the judiciary, and it is of vital importance to its members, to preserve them free from prejudice.

"Sir, have I not assumed the true ground which occasioned the unanimous vote of Tuesday, for separating the judiciary from the legislative department ? It needs but a slight view to shew that the operations of the Council have been such as I have stated. On this subject I will only call the attention of the committee to two instances. The first, is that to which the gentleman from Dutchess yesterday adverted. I ask the convention for a moment to recur to that lamentable occasion, when the high power of prorogation was exercised by the executive, to check the torrent of corruption, which had set in upon the Legislature, and which proved the wisdom and necessity of some constitutional check.* This proving ineffectual, every eye was turned to the Council of revision, to arrest the progress of the measure about to be adopted. What was their course ? The bill which had occasioned that strong exercise of power, was passed by the Council, although there were not wanting in that Council, men who were alive to the interests and the honor of the state ; the language of the majority was, that the bill upon its face, contained no provision contrary to the constitution, and that the Legislature were the judges of its expediency.

"Pursue the subject farther. The scenes which passed within these walls, during the darkest period of the

* This allusion is to the prorogation of the Legislature by Gov. Tompkins in 1812, to prevent the incorporation of the Bank of America.

late war, cannot be forgotten. It is well known that the two branches of the Legislature were divided ; while in the one house we were exerting ourselves to provide for the defence of the country, the other house were preparing impeachments against the executive for appropriating money without law, for the defence of the state. But the effort was unavailing. An election intervened, and the people, with honorable fidelity to the best interests of their country, returned a Legislature ready and willing to apply the public resources for the public defence.— They did so. They passed a variety of acts, called for by the exigencies of our country. But from the Council of revision were fulminated objections to the passage of those acts—objections which were industriously circulated throughout the state to foment the elements of faction. Beyond all doubt, at that moment, was produced the sentiment which has led to the unanimous vote to abolish the Council. The Legislature had exerted themselves in the public defence ; and the object of these objections was to impress the public mind with a belief that their representatives were treading under foot the laws and constitution of their country. The public voice on that occasion was open and decided ; and it has ever since continued to set in a current wide and deep against the Council. In making these remarks, I disclaim all personal allusions to the author of those objections. I entertain for him the highest respect. As a judicial officer, he is entitled to great consideration, and I should esteem his loss from the situation which he fills, as a public calamity.

“ Mr. Van Buren again repeated his regret that this discussion had been called forth, as the constitution of our judiciary is to be reviewed. But he could not consent, in abolishing the Council, to shed tears over its ruins, or pass an eulogy on its character. By doing this, and by the course of some gentlemen’s arguments, we are mourning over our own acts, and preparing the public to distrust our sincerity. We ourselves are undermining what we ourselves have done.

“ To return to the argument—That legislative bodies are subject to passion, and sometimes to improper influence is not to be denied. Their acts are frequently so detrimental to the public interest, that the united voice of the people, calls for their repeal—a striking proof, if proof were necessary—that legislators are but men, subject to all the infirmities and frailties of our nature. The cases cited by the gentleman from Dutchess, (Mr. Tallmadge)

are strong and directly in point. They show, that the representatives of the people do sometimes err. They show also the necessity of preserving a controlling power.— And what is the consequence of placing such a power, upon the footing recommended, by the report of the committee? It may suspend for a time the operations of the Legislature. It may prevent the passage of a bad law, but never can defeat the passage of a good one. If a good law be returned with objections, it will come before the people, they will pronounce upon it, and return representatives, who will insist upon its passage. If it be a bad one, the revisory power will be justified; delay, therefore, for the most part, will be the only consequence of the check, and that will be followed, by all the benefits of further discussion, and a fuller understanding of the subject. But the advantages of such a power, are not confined to its exercise. I concur with my honorable friend from Oneida, (Judge Platt) as to its silent effect. The advantages arising from its silent and unseen operation, are doubtless greater than those arising from an exercise of the power. A bare majority is not always an indication of honesty, or that a favorite measure is correct. Great weight of character and powerful talents are often embodied in the minority. Many laws pass by a bare majority; but when there is a qualified negative upon the acts of the Legislature, the gentlemen of the majority, aware of this power, may be restrained from passing many improper bills. I have no doubt but considerations of this kind have influenced the conduct of legislators for years past. In every point of view, whether from our own experience, or the experience of other states, we discover this liability of legislators to act hastily and inconsiderately. The judgments of most reflecting men unite in the expediency of some check like that proposed by the committee; and when it can be productive of no other effect than to suspend the passage of a bill, and thereby enable the people to express their will upon the subject, it is to me, sir, matter of surprise, that so much hostility should be shewn to the report of the committee.

“But, sir, the prevention of party legislation is not the only, nor the most important reason, why we are disposed to give this power to the executive. Our government is divided into separate and distinct departments—the executive, judicial, and legislative. And it is indispensable to the preservation of the system that each of these departments should be preserved in its proper sphere from

the encroachments of the others. It is objected, however, to vesting the power in the hands of a single individual, on account of the liability of man to the abuse of power. But an instance of the abuse of power thus confided, has never existed, where it did not defeat the very object for which it was abused.

"Distinct branches are not only necessary to the existence of government, but when you have prescribed them, it is necessary that you should make them in a great degree, independent of each other. No government can be so formed as to make them entirely separate; but it has been the study of the wisest and best men, to invent a plan, by which they might be rendered as independent of each other as the nature of government would admit. The legislative department is by far the strongest, and is constantly inclined to encroach upon the weaker branches of government, and upon individual rights. This arises from a variety of causes. In the first place, the powers of that department are more extensive and undefinable than those of any other, which gives its members an exalted idea of their superiority. They are the representatives of the people, from which circumstance, they think they possess, and of right ought to possess, all the powers of the people. This is natural and it is easy to imagine the consequences that may follow.

"This is not all—they hold the purse strings of the state; and every member of all the branches of the government is dependent on them for his subsistence. You have been told, and correctly told, that those who feed men, and enjoy the privilege of dispensing the public bounty, will in a greater or less degree influence and control them. Is it unreasonable, or improbable, to suppose, that power, thus constituted, should have a tendency to exert itself, for purposes not congenial with the true interests of the other branches of government? The gentleman from Dutchess, (Mr. Tallmadge,) referred to some striking illustrations of the conduct of legislative bodies, in this particular, which show that power thus vested is too frequently abused. The case of Pennsylvania is entitled to our serious consideration. In 1783 they provided a board of censors to examine into the proceedings of their Legislature. Those censors, though some of them had taken part in the proceedings of that body for years, pointed out and reported a long list of legislative infractions of the constitution. In 1790 a Convention was called, which formed a new constitution. That body, after

full and deliberate discussion, inserted in their constitution that very article which has been reported as worthy of a place in ours. That Convention was composed of the wisest and best men in the state, many of whom assisted in forming the constitution of the United States. It contained Mifflin, M'Kean, Addison, Gallatin, and a long list of other statesmen, distinguished for their talents, wisdom, and experience. The people of Pennsylvania, at the adoption of their first constitution, did not believe in the principle for which I am contending ; but experience soon taught them that they were wrong. The check proposed in 1790 was adopted, and the Legislature has since been kept in the line of their duty. In my view, the conduct of Pennsylvania affords the strongest testimony in favor of adopting the course recommended by the committee ; and I cannot but believe, that if the proposition of the gentleman from Dutchess, (Mr. Livingston) should prevail, New York would experience the same evils, and be compelled to resort to the same measures, to get rid of the experiment.

" The gentleman from Dutchess, (Mr. Livingston) has referred us to Virginia, and descanted on the number, wisdom, and integrity of their statesmen. Mr. Van Buren would assent cheerfully to all he had said upon that point. In that number was included the political father of the state, Mr. Jefferson. No man had more experience in the government of that state ; no one had more fearlessly pointed out the defects of their constitution. Unfortunately, it imposes no check upon the legislative power ; their Governor is elected by the Legislature, and of course is but a creature of that body. And, sir, (said Mr. Van Buren) at this moment it is a source of regret to the best statesmen of Virginia, that they have no check. Mr. Jefferson, in his Notes on Virginia, expresses himself thus :—

" All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves.

An *elective despotism* was not the government we fought for; but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits, without being effectually checked and restrained by the others. For this reason, that Convention which passed the ordinance of government, laid its foundation on this basis, that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. *But no barrier was provided between these several powers.* The judiciary and executive members were left dependent on the legislative for their subsistence in office, and some of them for their continuance in it. If therefore the Legislature assume executive and judiciary powers, no opposition is likely to be made; nor if made can be effectual; because in that case, they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly in many instances *decided rights* which should have been left to *judiciary controversy*; and the *direction of the executive, during the whole time of their session, is becoming habitual and familiar.*

“Here, sir, we have the opinion and the complaints of this great man. The Legislature had usurped the power of all the departments. The people had declared that those departments should be independent, but they deceived themselves by trusting to parchment regulations. And the gentleman from Dutchess, (Mr. Livingston) wishes us to go on, and in the same manner invest the Legislature with all the powers of the people.

“But this is not all. That there may be no mistake in the views of this distinguished man, I think it proper to state, that in 1783, it was contemplated to call a Convention to amend their constitution. Mr. Jefferson, with paternal solicitude for the interests of the state, framed a constitution, to be submitted to that body. It may be found in the appendix to the Notes on Virginia. It contains a provision, declaring that the Governor, two Counsellors of state, and a Judge of each of the Superior Courts, should be a Council to revise all bills passed by the Legislature, and that a bill when returned by the Council should not become a law unless *two-thirds* of each house

should concur in its passage. Here, then, we have his deliberate opinion, that an efficient check is necessary upon the legislative power. And I have no doubt that should there ever be a Convention in Virginia to revise their constitution, such a provision would be one of the first to be adopted. But it is undeniably true, and so admitted by Mr. Jefferson, that Virginia is emphatically the land of steady habits, and although there are many defects acknowledged to exist in their constitution, still their reluctance to introduce a change, has hitherto prevented the call of a Convention.

"The gentleman from Westchester, (Mr. Jay) has presented a long list of instances, where the Legislature have encroached upon the executive, by concurrent resolutions; a striking proof of the truth of my remarks. And, sir, if you provide no check, the Legislature can go on to strip the executive of all his power. Then is it not necessary, for the well being of government, to vest a salutary check in some other department? A contrary doctrine, I am satisfied, is dangerous and absurd. In the constitution of the United States, and in several of the other states, you have a provision precisely similar to that for which we are now contending. Although amendments to the federal constitution have been proposed from almost every part of the Union, still against that provision we have never heard a murmur. That provision was avowedly copied from the constitution of Massachusetts, where its utility has never been questioned. Maine lived under it for nearly forty years, and on being separated into an independent state, has adopted the same provision. The late Convention in Massachusetts affords one of the strongest evidences that a patriotic people can give, in favor of this provision. This Convention was composed of their wisest and best men, selected without reference to party, and embracing almost the whole body of the talents of that state. They were two months in session, and in the course of all their debates, not a word of complaint was uttered against this part of the constitution.

"Sir, such is the superior force and influence of legislative power—such is the reverence and regard with which it is looked up to, that no man in the community will have the temerity, on ordinary occasions, to resist its acts, or check its proceedings. I cannot illustrate this position more strongly than by a reference to the constitution of England. There the executive is a branch of the Legislature, and has an absolute negative. Surrounded

as he is with prerogative, and placed far beyond the reach of the people, yet since the year 1692, no objection has been made by the king of Great Britain to any bill presented for his approbation. Rather than produce the excitement and irritation which, even there, would result from the rejection of a bill passed by the parliament, he has resorted to means which have degraded the government, and dishonored the nation, to prevent the passage of bills which he should feel it his duty to reject. In the declaration of independence, in the catalogue of wrongs under which our fathers had been suffering, one of the most prominent was, that the king had exercised his prerogative, and had refused his sanction to salutary laws. Gentlemen may therefore rest satisfied, that very little danger is to be apprehended on this subject. There is, besides, a proposition to reduce the term of service of the Governor, from three years to one. Is it possible, then, that when thus made immediately responsible to the people, there can exist any well founded causes of alarm?

"I hope, sir, we shall adopt the report of the committee, for these, and many other reasons which I shall not tire the patience of the committee by detailing. It is a common remark, that in alterations in government, people are apt to go from one extreme to the other. And, sir, are not gentlemen now going upon extremes? We have abolished the Council of revision, and weakened the revisory power, and by the amendment offered by the gentleman from Dutchess, (Mr. Livingston) we destroy it altogether. True, the Governor can return a bill with his objections. But what will it avail? A bare majority can pass the bill notwithstanding, and as his reasons will probably be those which the Legislature have already considered, can it be believed, sir, that his recommendation will have any effect? Can it be supposed for a moment, that the members of the Legislature would to-day record their names on the journals in one way, and to-morrow record them in a different way? And will not the Governor be restrained from exercising that power, when he knows it is vain and idle?

"We have heretofore had the revisory power in the hands of the judiciary and executive united; and now, because the people call for its separation, shall we destroy it altogether? Shall we go to the other extreme, and have no restriction whatever? I cannot perceive the benefits to result from such a course; I am persuaded of its impropriety. We have decided on abolishing the

Council of revision, in a manner that will redound to our credit ; and I had flattered myself from the promptness with which that decision was made, that the passage of the amendment would have followed without opposition. Let us not agitate and excite the fears of the community. They have expected an alteration of the legislative check, but not an abandonment of the principle. A portion of the people of this state, believe the Council of revision to have been wisely instituted, and of great practical utility. There are others, who think a change is necessary, and that the judiciary should have no connection with the other branches of government. Adopt the proposition of the gentleman from Dutchess, and what will be the consequence ? You alarm those two great bodies of our citizens, and hazard the rejection of your proceedings. If we would inspire the people with confidence in our acts—if we would ensure their approbation—if we would effect those wise and salutary amendments which the public voice and the public interest demand, we should beware of vibrating to extremes, and of introducing an innovation so hazardous and unexpected, as that which we are discussing.”*

The article, as reported by the committee and sustained by Mr. Van Buren, was finally adopted into the constitution.

Analogous to the question involved in the above article, was that which arose on the term for which the Governor should be elected. A part of Mr. Van Buren’s remarks on this point were as follows :

“ As we increase the power of the executive, we should also increase the responsibility of the Governor. We should bring him more frequently before the people. His conflicts, if any, will not be with the Legislature. He

* Carter and Stone’s Reports of the New York Convention, page 70.

was rendered by the provision now proposed, utterly and entirely independent of the Legislature. Of the people he did not think he should be rendered so independent. In the exercise of the veto, which will only take place on important occasions, he will be supported, if he should have acted manifestly for the public good. He had not experienced the evils of triennial elections; but as we had vastly increased the power of the Governor, a strong desire is manifested to abridge his term, and in this sentiment he concurred. But how abridge it? We wish the people to have an opportunity of testing their Governor's conduct, not by the feelings of temporary excitement, but by that sober second thought, which is never wrong. Can that be effected if you abridge the term to one year? No, sir: it is necessary that his power exist long enough to survive that temporary excitement, which a measure of public importance must occasion, and to enable the people to detect the fallacy with which the acts of government may be veiled as to their real motives. Can a fair judgment of motives, or of the effect of measures, be made in a few months? No, sir—even a term longer than three years, must sometimes be necessary to enable us to judge of the effect of measures. But we must not go into extremes, or we shall rouse the jealousies of the people, in weakening the responsibility to them, of their public officers. Let us test the question by reason. You have a state and population, whose concerns bear a strong analogy to the interests of the Union. Can a Governor, in a term of one year, make himself acquainted with the interests, the wants, and condition of this great state? There was one remark he made with great deference—in all the eastern states, the tenure of the chief magistrate is for only one year; and the majority of this Convention have imbibed their notions under those constitutions, and naturally consider them wise. Others, who have lived under the constitution of this state, have preferred, as he had been accustomed to do, the tenure of three years; and he asked, if there was not some respect, some comity due, to those who have viewed this, among other provisions of our constitution, with reverence. For these reasons he hoped the blank would be filled with two years.”*

* Debates in New York Convention, page 147.

On the 17th of September, Mr. Van Buren, as chairman of the committee on the appointing power, presented an elaborate report, the result of great consideration and reflection on the part of the committee. The principles of this report were defended and explained by Mr. Van Buren on several occasions, but as his remarks, on this subject, do not involve any important general views, they are not here inserted. The proposition of the committee, with some modification, was finally adopted. The Council of appointment was abolished ; the substitutes adopted, appear in the constitution of that state.*

On the proposition of prefixing to the constitution a bill of rights, Mr. Van Buren was averse to it : " A bill of rights, Sir," said he " is a privilege, according to the original signification of it ; a concession, extorted from the king in favor of popular liberty. But how does that apply here ?" He then went into a history of the origin of bills of right in England, and concluded by expressing a wish that, as a bill of rights, this might not prevail ; but that any provision on it, which might be deemed salutary, should be engrafted upon the constitution.

One of the principal objects of amending the constitution was to extend the right of suffrage ; and the leading discussions in the Convention re-

* See an able speech by Mr. Van Buren, explaining the report of the committee, in the Debates of the Convention, page 296.

lated to that topic. The committee to whom that subject was referred, proposed a residence of six months in the state, and the having paid taxes, or worked on the highways, or done military duty, as the qualification of an elector. Judge Spencer proposed as an amendment, to require, as a qualification to vote for Senators, a freehold estate of the value of two hundred and fifty dollars. Mr. Van Buren strenuously opposed this amendment, and the following extracts from his speech on this occasion, will shew his general views with regard to the propriety of restricting the elective franchise to freeholders.

“ Mr. Van Buren, said he was opposed to the amendment under consideration, offered by the gentleman from Albany, (Chief Justice Spencer;) and he would beg the indulgence of the committee, for a short time, while he should attempt to explain the reasons, which, in his opinion, required its rejection. The extreme importance which the honorable mover had attached to the subject, and the sombre and frightful picture which had been drawn by his colleague, (the Chancellor,) of the alarming consequences, which would result from the adoption of a course, different from the one recommended, rendered it a duty, which those, who entertained a contrary opinion, owed to themselves and their constituents, to explain the motives which governed them. If a stranger had heard the discussions on this subject, and had been unacquainted with the character of our people, and the character and standing of those, who find it their duty to oppose this measure, he might well have supposed, that we were on the point of prostrating with lawless violence, one of the fairest and firmest pillars of the government, and of introducing into the sanctuary of the constitution, a mob or a rabble, violent and disorganizing, as were the Jacobins of France; and furious and visionary as the radicals of England, are, by some gentlemen, supposed to be. The honorable gentleman from Albany, (the Chancellor,) tells us, that if we send the constitution to the people, without

the provision, contemplated by the proposition now under consideration, it will meet with the scorn of the wise, and be hailed with exultation by the vicious and the profligate. He entertained, he said, a high personal respect for the mover of this amendment, and also for his learned colleague, who had so eloquently and pathetically described to them the many evils and miseries which its rejection would occasion ; he declared his entire conviction of his sincerity in what he had uttered, his simplicity of character, he had himself so feelingly described, his known candor and purity of character would forbid any one to doubt, that he spoke the sentiments of his heart. But believing as he did, that those fears and apprehensions were wholly without foundation, it could not be expected, that he would suffer them to govern his conduct.

" Permit me to ask, (said Mr. Van Buren) where are the wise men to be found, who it is supposed would pass a censure so severe on our conduct ? Did the honorable gentleman allude to the wise men of the east ? Throughout their dominions, not a constitution is to be found, containing, in form or substance, the provision contemplated by the amendment. Did he allude to their descendants in the west ? In Ohio, and partially in Illinois and in Indiana ? Their constitutions were in this particular as ours would be, if this amendment was adopted. Did he allude to those of the south ? In none of their constitutions, nor in those of any state in the Union, (except North Carolina,) was such a provision as that proposed by the amendment to be found. In the constitution of the Union, too, which has been in operation long enough to test the correctness and soundness of its principles, there was no excessive freehold representation. That constitution was now the boast and pride of the American people, and the admiration of the world. He presumed there was not an individual in that committee, who would question the sufficiency of the General Government, for the protection of life, liberty and property. Under this government, and the several state constitutions, the states had been, and continued to be, rapidly advancing in public improvements, and the nation was in the full fruition of the blessings of civil and religious liberty ; every one was sitting quietly and safely under his own vine and fig tree, and every one enjoying, without molestation, the fruits of his own labor and industry.

" It could not, therefore, fail to strike the mind of every man, that the great alarm, which had been attempted to be

excited upon this subject, was entirely imaginary—certainly without adequate foundation. Why, then, he would ask, had this appeal been made to the fears and apprehensions of the committee ?

“ In the grave and portentous deductions, which the honorable gentleman, who supported the amendment, had drawn from the rejection of the amendment under consideration, the question raised by it, had been, in a great degree, disregarded, if not entirely lost sight of. The committee had been entertained with the most frightful conjectures, on subjects, if not wholly, certainly in a great degree, unconnected with the object of the amendment.—They had been told of the present bad character, and worse propensities of a great portion of their present population—the demoralizing effects of great manufacturing establishments, which might, or might not, hereafter grow up among us, had been portrayed in the darkest colors—the dissolute and abandoned character of a large portion of the inhabitants of the old cities of Europe, and the probability of similar degeneracy in this happy land, had been represented in hideous deformity ; and all the powers of eloquence, and the inventions of imagination, had been enlisted, to present to our view, a long train of evils, which would follow, from extending the right of suffrage to such a description of people. And all this had been done, to procure the adoption of the amendment under consideration. He would now put the question to the sober sense of the committee, and to the highly respectable and venerable gentlemen, who had thought proper to press these matters upon them in this stage of the discussion, with what propriety had this been done ? Did the amendment raise the question, whether any, and what amount of *property* should be a requisite qualification for a voter ? Whether contributions to the public for the protection of property, in the shape of taxes shall be required ? or whether personal services, either in the public defence, or for public improvements, should be deemed sufficient ? These, he said, were questions brought into view by the report of the select committee, and on which, they would hereafter have to act, but they were not now under discussion. When they would come before them, then would the past, the present, and probable future character of the population of this state, be proper subjects for consideration. * * *

“ There were two words, continued Mr. Van Buren, which had come into common use with our revolutionary

struggle ; words which contained an abridgement of our political rights ; words which, at that day, had a talismanic effect ; which led our fathers from the bosoms of their families to the tented field ; which, for seven long years of toil and suffering, had kept them to their arms ; and which finally conducted them to a glorious triumph. They were ' TAXATION and REPRESENTATION ;' nor did they lose their influence with the close of that struggle. They were never heard in our halls of legislation, without bringing to our recollections the consecrated feelings of those who won our liberties, or without reminding us of every thing that was sacred in principle. * * *

" Apply, said he, for a moment, the principles they inculcate to the question under consideration, and let its merits be thereby tested. Are those of your citizens represented, whose voices are never heard in your Senate ? Are these citizens in any degree represented or heard, in the formation of your courts of justice, from the highest to the lowest ? Was, then, representation in one branch of the Legislature, which by itself can do nothing—which, instead of securing to them the blessings of legislation, only enables them to prevent it as an evil, any thing more than a shadow ? Was it not emphatically ' keeping the word of promise to the ear, and breaking it to the hope ?' Was it not even less than the *virtual representation*, with which our fathers were attempted to be appeased by their oppressors ? It was even so ; and if so, could they, as long as this distinction was retained, hold up their heads, and, without blushing, pretend to be the advocates for that special canon of political rights, that taxation and representation were, and ever should be, indissoluble ? He thought not.

" In whose name, and for whose benefit, he inquired, were they called upon to disappoint the just expectations of their constituents, and to persevere in what he could not but regard as a violation of principle ? It was in the name, and for the security of '*farmers*,' that they were called upon to adopt this measure. This, he said, was, indeed, acting in an imposing name ; and they who used it, knew full well that it was so. It was, continued Mr. Van Buren, the boast, the pride, and the security of this nation, that she had in her bosom a body of men who, for sobriety, integrity, industry, and patriotism, were unequalled by the cultivators of the earth in any part of the known world ; nay, more, to compare them with the men of similar pursuits in other countries, was to degrade

them. And woful must be our degeneracy, before any thing which might be supposed to affect the interests of the farmers of this country, could be listened to with indifference by those who governed us.

"He could not, he said, yield to any man in respect for this invaluable class of our citizens, nor in zeal for their support: but how did this matter stand? enquired Mr. Van Buren. Was the allegation that they were violating the wishes, and tampering with the security of the farmers, founded in fact, or was it merely colorable? Who, he asked, had hitherto constituted a majority of the voters of the state? The *farmers*—who had called for, and insisted upon the Convention. *Farmers and freeholders!* Who passed the law admitting those, who were not electors, to a free participation in the decision of the question of *Convention or No Convention*, and also in the choice of delegates to that body. A Legislature, a majority of whom were farmers, and probably every one of them freeholders, of the value of two hundred and fifty dollars and upwards! The farmers of this state had, he said, by an overwhelming majority, admitted those who were not freeholders, to a full participation with themselves in every stage of this great effort to amend our constitution, and to ameliorate the condition of the people: could he, then, ought he, to be told, that they would be disappointed in their expectations, when they found that by the provisions of the constitution as amended, a great proportion of their fellow citizens were enfranchised, and released, from fetters which they themselves had done all in their power to loosen? He did not believe it. Again, enquired Mr. Van Buren, who are we, that have been chosen to perform this great, and he could not but think, good work? A great majority of us are practical farmers; *all freeholders*, and of no small amounts. Were they their own worst enemies? Could they be suspected of a want of fidelity to the freehold interest? No! The farmers had looked for such an event; they earnestly desired it. Whatever ravages the possession of power might have made in the breasts of others, they at least had shewn that they could 'feel power without forgetting right.' If any thing, (said Mr. Van Buren,) could render this invaluable class of men dearer and more estimable than they were, it was this magnanimous sacrifice which they had made on the altar of principle, by consenting to admit those of their fellow citizens, who though not so highly favored as themselves by for-

tune, had still enough to bind them to their country, to an equal participation in the blessings of a free government. Thus, Mr. Van Buren said he understood their wishes, and he would govern himself accordingly; having the consolation to know, that if he should have misunderstood them, they would have the power of rescuing themselves, from the effects of such misapprehension, by rejecting the amendments, which should be proposed for their adoption.

"But let us, said he, consider this subject in another and different point of view; it was their duty, and he had no doubt it was their wish, to satisfy all, so that their proceedings might meet with the approbation of the whole community; it was his desire to respect the wishes and consult the interests of all; he would not hamper the rich nor tread upon the poor, but would respect each alike. He would, he said, submit a few considerations to the men of property, who think this provision necessary for its security, and in doing so, he would speak of property in general, dropping the important distinction made by the amendment offered, between real and personal estate. Admitting for the sake of argument, that the distinction was just, and wise, and necessary, for the security of property, was the object effected by the present regulation? He thought not; property was not now represented in the senate to the extent it was erroneously supposed to be. To represent *individual property*, it would be necessary that each individual should have a number of votes in some degree at least, in proportion to the amount of his property; this was the manner in which property was represented, in various corporations and in monied institutions. Suppose in any such institution one man had one hundred shares, another one share, could you gravely tell the man who held one hundred shares, that his property was represented in the direction, if their votes were equal. To say that because a man worth millions, as is the case of one in this committee, has one vote, and another citizen worth only two hundred and fifty dollars in real estate, has one vote for Senators, that therefore their property is equally represented in the Senate, is, to say the least, speaking very incorrectly; it is literally substituting a shadow for a reality; and though the case he had stated by way of illustration, would not be a common one, still the disparity which pervaded the whole community, was sufficiently great to render his argument correct.

"If to this it was answered, as it had been by the gentleman from Albany, (Mr. Van Vechten,) that the amount was not material; that the idea of their representing freeholders would be sufficient; his reply was, that this purpose was already effected by the constitution as it stands. It now provides that the Senators shall be freeholders; and that part of the constitution it was not proposed to alter. There was no objection to fixing the amount of the freehold required in the elected, and to place it on a respectable, but not extravagant footing. If, therefore, an ideal representation of property was of any value, that object was fully obtained without the amendment. But the preservation of individual property, is not the great object of having it represented in the Senate.

"When the people of this state shall have so far degenerated; when the principles of order or of good government which now characterize our people, and afford security to our institutions, shall have so far given way to those of anarchy and violence, as to lead to an attack on private property, or an agrarian law; to which allusion had been made by the gentleman from Albany, (Mr. Kent,) or by an attempt to throw all the public burthens on any particular class of men; then all constitutional provisions will be idle and unavailing, because they will have lost all their force and influence. In answer to the apprehension so frequently expressed, that unless this amendment prevails, there is nothing to prevent all the taxes being laid on the real estate, it is only necessary to state, that there is no more in the constitution of the United States, than there will be in ours, if the amendment fails, to prevent all the revenues of the Union from being raised by direct taxation. And was such a fear ever entertained for, the General Government? How is it possible for gentlemen to suppose, that in a constitutional regulation, under which all the states are enjoying the most ample security for property, an individual state would be exposed to danger. * * *

"The representation, then, of property in the Senate, under the existing constitution, was, he said, as it respected individual estates, wholly delusive, and as it respected the interest of property in the different sections of the state so flagrantly unequal as to destroy practical advantage to property from a representation of it, and not only so, but made it infinitely worse than if property was not professed to be represented at all. * * *

"And what, he enquired, had been its practical effects?

had they been such as to afford any additional security to property? had the members of the Senate, for years past, been more respectable for talents or integrity? had they shewn a greater regard for property? had they been more vigilant in guarding the public treasury than the assembly.

"The Senate, he said, was the only legislative body in which he had ever had the honor of a seat; and he had been there from a very early age—almost all his political connexions had been with that body—his earliest political recollections were associated with its proceedings, and he had had, in some of its proceedings, as much cause for individual gratification as could well, under the same circumstances, fall to the lot of any man; notwithstanding which, and also the strong partiality he had always felt for that body, he could not say, that in the many years he was there, the sentiment never occurred to him, that such was the case. On the contrary, a regard to truth constrained him to say, that every thing, which regarded the imposition of public burdens, and the disposition of public property, were more closely looked into, and more severely scrutinized by the Assembly than the Senate. The sense of immediate responsibility to the people, produced more effect on the Assembly, than the consideration, that they represented those, who were supposed principally to bear the burdens, did in the Senate; and such, he conscientiously believed, would always be the case. He asked the members of the committee, whether they believed, that there had been a moment for the last forty years, when a proposition in the Assembly to make an unjust distinction between real and personal property, in the imposition of public burdens, would not have been hooted out of that body, if any one had been found mad enough to have dared its introduction? Why, then, he asked, alarm ourselves by fears for the future, which the experience of the past had demonstrated to be erroneous? Why disregard the admonitions of experience, to pursue the dubious path of speculation and theory?

"He had no doubt but the honorable gentlemen who had spoken in favor of the amendment, had suffered from the fearful forebodings which they had expressed. That ever to be revered band of patriots who made our constitution, entertained them also, and therefore they engrafted in it the clause which is now contended for. But a full and perfect experience had proved the fallacy of their

speculation, and they were now called upon again to adopt the exploded notion; and on that ground, to disfranchise, if not a majority, nearly a moiety, of our citizens. He said he was an unbeliever in the speculations and mere theories on the subject of government, of the best and the wisest men, when unsupported by, and especially when opposed to, experience. He believed with a sensible, and elegant, and modern writer, 'that constitutions are the work of time, not the invention of ingenuity: and that to frame a complete system of government, depending on habits of reverence and experience, was an attempt as absurd as to build a tree, or manufacture an opinion.'

"All our observation, he said, united to justify this assertion—when they looked at the proceedings of the convention which adopted the constitution of the United States, they could not fail to be struck by the extravagance, and, as experience had proved, the futility of the fears and hopes that were entertained and expressed, from the different provisions of that constitution, by the members. The venerable and enlightened Franklin, had no hope if the President had the qualified negative, that it would be possible to keep him honest; that the extensive power of objecting to laws, would inevitably lead to the bestowment of douceurs to prevent the exercise of the power; and many, very many of the members, believed that the General Government, framed as it was, would, in a few years, prostrate the state governments. While, on the other hand, the lamented Hamilton, Mr. Madison, and others, distressed themselves with the apprehension, that unless they could infuse more vigor into the constitution they were about to adopt, the work of their hands could not be expected to survive its framers. Experience, the only unerring touchstone, had proved the fallacy of all those speculations, as it had also those of the framers of our state constitution, in the particular now under consideration; and having her records before them, he was for being governed by them. * * *

"If, then, it was true that the present representation of property in the Senate was ideal, and purely ideal, did not, continued Mr. V. B. sound policy dictate an abandonment of it, by the possessors of property? He thought it did; he thought so because he held it to be at all times, and under all circumstances, and for all interests, unwise to struggle against the wishes of any portion of the people—to subject yourselves to a wanton exposure to public

prejudice, to struggle for an object, which, if attained, was of no avail. He thought so, because the retaining of this qualification in the present state of public opinion, would have a tendency to excite jealousy in the minds of those who had no freehold property, and because more mischief was to be apprehended from that source than any other. It was calculated to excite that prejudice because not requiring sufficient to effect the object in view, it, in the language of Dr. Franklin, 'exhibited liberty in disgrace, by bringing it in competition with accident and insignificance.'

"But, said Mr. V. B. we have been referred to the opinions of General Hamilton, as expressed in his writings in favor of the Constitution of the United States, as supporting this amendment. He should not detain the committee by adding any thing to what had been said of his great worth, and splendid talents. He would omit it, because he could not add to the encomiums which had been delivered on this floor, on his life and character. The tribute to departed worth has been justly paid by the honorable gentlemen from Albany and Orange, (Messrs. Spencer and Duer.) But there was nothing in the Federalist to support the amendment. Without troubling the committee by reading the number which had been referred to, it would be sufficient for him to say, that it could not be supposed, that the distinguished men who had done a lasting benefit to their country; and had earned for themselves the highest honors, by the work in question, could have urged the propriety, of a property representation, in one branch of the Legislature, in favor of a constitution, which contained no such provision. They had not done so.

"We were, said Mr. V. B. next referred by the honorable mover of the amendment, to the opinion of Mr. Jefferson, as expressed in his Notes on Virginia. In making that reference, the honorable gentleman had done himself credit; and had rendered but justice to the merits of the distinguished individual, whose opinion he had sought to enlist on his side. He had truly said, that now, when the strong party feeling which attended the public measures in which Mr. Jefferson was an actor, had in some degree subsided, most men united in the acknowledgment of his deserts. That sentiment, however, it appeared, was not general, since the gentleman from Columbia, (Mr. E. Williams) distinctly avows, the retention of his old prejudices. Whilst that gentleman was trumpet-

tongued, in denouncing the impropriety of indulgence, in party feelings by others, he had given them the strongest reason to believe, that his own were immortal; that they had not only survived the 'era of good feeling,' through which we had passed, but were likely to continue. But that notwithstanding, he still thought of Mr. Jefferson, as he always had done, he would condescend to use him for the occasion. Sir, said Mr. V. B. it is grating to one's feelings, to hear a man, who has done his country the greatest service, and who at this moment occupies more space in the public mind, than any other private citizen in the world, thus spoken of. But no more of this.

"Mr. Jefferson did complain, in 1781, of the constitution of Virginia, because the two branches of their Legislature were not sufficiently dissimilar, but he did not point out the mode in which he thought that object could be best effected.

"In 1783, when, as he had before stated, a convention was expected in Virginia, he prepared a form of government to be submitted to the people, in which he provided the same qualification for both branches, and shewed clearly, either that his opinion had undergone a change on the subject, or that he supposed the object would be effected by the difference of their term of service, and the districts they represented.

"The next consideration which had been pressed upon the committee by the honorable mover of the amendment, was, the apprehension that the persons employed in the manufactories which now were, or which, in the progress of time, might be established amongst us, would be influenced by their employers. So far as it respected the question before the committee, said Mr. V. B. it was a sufficient answer to the argument, that if they were so influenced, they would be enlisted on the same side, which it was the object of the amendment to promote, on the side of property. If not—if they were independent of the influence of their employers, they would be safe depositories of the right. For no man, surely, would contend that they should be deprived of the right of voting on account of their poverty, except so far as it might be supposed to impair their independence, and the consequent purity of the exercise of that invaluable right.

"The honorable gentleman from Albany, (Mr. Spencer) had next directed their attention to the borough elections in England, as evidence of the consequences which might be expected from the non-adoption of his amend-

ment. Mr. V. B. said he could not, in his view of the subject, on the most mature reflection, have selected an argument better calculated to prove the amendment to be unwise and improper, than this one, on which the gentleman mainly relied for its support. What, sir, said he, was the cause of the corruptions which confessedly prevail in that portion of the representation in the parliament of Great Britain? Was it the lowness of the qualifications of the electors, in comparison with the residue of the country? No. In many of the boroughs a freehold qualification was required; in most, that they should be burgage holders; and in all, that they should be freemen, paying scot and lot. Compare, said Mr. V. B. these qualifications with those required in Westminster, and it will be found that the lowest of the former are equal to the latter. It could not be necessary for him to say, that if the will of the people prevailed in any election in England—if patriotism and public spirit was sure to find its appropriate reward any where in that country, it was at the Westminster elections. The qualifications of the electors, therefore, was not the cause, except it was in some instances where the election was confined to a very few, as for instance, to the Mayor and common Council of a borough. But I will tell you, sir, said Mr. V. B. what is the cause—it is because the representation in question, is a representation of things, and not of men—it is because that it is attached to territory, to a village or town, without regard to the population; as by the amendment under consideration, it is attempted here to be attached to territory, and to territory only. Suppose, for a moment, that the principles on which the report of the select committee is based, and which the amendment opposes, should be applied to the representation in the parliament of Great Britain—that instead of her present representation, it should be apportioned among all their subjects who contribute to the public burthens? Would you hear any complaints in that country on the subject of their rotten boroughs? No, sir; but on the contrary, that reform in parliament would be at once obtained, for which the friends of reform in that devoted country have so long contended, and which they probably never will obtain, except, (to use the language of the gentleman from Albany) at the point of the bayonet. He could not, therefore, but think that the illustration resorted to, by the honorable mover of the amendment, was most unfortu-

nate to his argument, nor ought he to withhold his thanks for the suggestion.

"There were, continued Mr. V. B. many, very many, considerations, besides those he had noticed, which could, with propriety and profit, be urged on this occasion, to shew the impropriety of the amendment. There were several which it was his intention at first to urge. He had designed too, to notice some of the remarks which fell from the gentleman from Columbia, (Mr. Williams,) but as he was not certain that what he should say, would produce that state of feeling necessary on so interesting a subject, he would omit it. The time which he had already occupied—the very flattering attention with which the committee had listened to him, an attention demanding and receiving his utmost gratitude, induced him to forbear from trespassing further on their patience. The great importance, therefore, of having various interests, various talents, and men of various pursuits, in the Senate, to secure a due attention to, and a perfect understanding of, the various concerns to which legislation might be applied in this state, the origin of the freehold requisition in England and here, together with the reasons why that distinction, though proper at the time of the adoption of our constitution, had almost entirely ceased to be wise or just: and also the causes which must inevitably render it in a short time, in our country at least, very unnecessary and ineffectual, together with topics like those, he would leave to the very judicious remarks which had already been made, and to such as might hereafter be made by others.

"If he could possibly believe, added Mr. V. B. that any portion of the calamitous consequences could result from the rejection of the amendment, which had been so feelingly portrayed by the honorable gentleman from Albany, (Mr. Kent,) and for whom he would repeat the acknowledgement of his respect and regard, he would be the last man in society who would vote for it. But, believing, as he conscientiously did, that those fears were altogether unfounded; hoping and expecting that the happiest results would follow from the abolition of the freehold qualification, and hoping too, that caution and circumspection would preside over the settlement of the general right of suffrage, which was hereafter to be made, and knowing, besides, that this state, in abolishing the freehold qualifications, would but be uniting herself in the march of principle, which had already prevailed in

every state of the Union, except two or three, including the royal charter of Rhode-Island, he would cheerfully record his vote against the amendment.”*

The restriction proposed by Judge Spencer was rejected. The qualifications required in the report of the committee, besides temporary residence, were, as has already been stated, paying taxes, or doing military duty, or working on the highways. Mr. Van Buren was in favor of adding to the latter alternative, the further restriction of being a *house-holder*. He expressed his fears that the extension contemplated by some of the amendments proposed, would not be sanctioned by the public approbation, and would occasion the rejection of the whole by the people. In this connection, Mr. Van Buren remarked, on another occasion, “that were the bare, naked question of universal suffrage put to the committee” (of the whole) “he did not believe there were twenty members who would vote for it.” He added; “One word on the main question before the committee. We had already reached the verge of *universal* suffrage. There was but one step beyond. And are gentlemen prepared to take that step? We were cheapening this invaluable right. He was disposed to go as far as any man, in the extension of rational liberty; but he could not consent to undervalue this precious privilege so far as to confer it, with an indiscriminating hand, upon

* Debates in the New York Convention p. 465.

every one, black or white, who would be kind enough to condescend to accept it.”*

At other times, he expressed his fears that some of the amendments were intended to go “so far as to have all the amendments rejected by the people; that they were hazarding every thing by going such lengths, and that the people would never sanction it.”† His views, however, are more fully and accurately expressed in the following remarks, offered while the report was still under consideration.

“Mr. Van Buren said, that as the vote he should now give on what was called the highway qualification, would be different from what it had been on a former occasion, he felt it a duty to make a brief explanation of the motives which governed him. The qualifications reported by the first committee, were of three kinds, viz: the payment of a money tax, the performance of military duty, and working on the highway. The two former had met with his decided approbation; to the latter he wished to add the additional qualification, that the elector should, if he paid no tax, performed no militia duty, but offered his vote on the sole ground that he had labored on the highways, also be a *house-holder*; and that was the only point in which he had dissented, from the report of the committee. To effect this object, he supported a motion made by a gentleman from Dutchess, to strike out the highway qualification, with a view of adding ‘*house-holder*.’ That motion, after full discussion, had prevailed by a majority of twenty. But what was the consequence? The very next day, the same gentlemen who thought the highway tax too liberal a qualification, voted that every person of twenty-one years of age, having a certain term of residence, and excluding *actual* paupers, should be permitted

* Debates in New York Convention, p. 277.

† Ib. pp. 275—284.

to vote for any officer in the government, from the highest to the lowest—far outvying, in this particular, the other states in the Union, and verging from the extreme of restricted, to that of universal suffrage. The Convention, sensible of the very great stride which had been taken by the last vote, the next morning referred the whole matter to a select committee of thirteen, whose report was now under consideration. That committee, though composed of gentlemen, a large majority of whom had voted for the proposition for universal suffrage, had now recommended a middle course, viz.—the payment of a money tax, or labor on the highway, excluding militia service, which had, however, been very properly reinstated. The question then recurred; shall an attempt be again made to add that of house-holder, to the highway qualification, and run the hazard of the re-introduction of the proposition of the gentleman from Washington, abandoning all qualifications, and throwing open the ballot boxes to every body—demolishing at one blow, the distinctive character of an elector, the proudest and most invaluable attribute of freemen?

“Mr. Van Buren said, he had, on the motion of the gentleman from Columbia, this day hinted at the numerous objections which he had to the proposition, which the other day passed the Convention, in regard to the right of suffrage: objections which he intended to make, had the committee reported in favor of that vote; and by which, when fully urged, he knew that he would be able to convince every member of this committee of the dangerous and alarming tendency of that precipitate and unexpected prostration of all qualifications. At this moment, he would only say, that among the many evils which would flow from a wholly unrestricted suffrage, the following would be the most injurious, viz:—

“First. It would give to the city of New York about twenty-five thousand votes; whilst, under the liberal extension of the right on the choice of delegates to this Convention, she had but about thirteen or fourteen thousand. That the character of the increased number of votes would be such as would render their elections rather a curse than a blessing: which would drive from the polls all sober minded people; and such, he was happy to find, was the united opinion, or nearly so, of the delegation from that city.

“Secondly. It would not only be injurious to them, but that injury would work an equally great one to the w—

ern and northern parts of the state. It was the present consolation of our hardy sons of the west, that, for their toils and their sufferings in reducing the wilderness to cultivation, they were cheered by the conviction, not only that they would be secure in the enjoyment of their dear bought improvements, in consequence of their representation in the Legislature, but that any increase of that representation gave them a still greater influence there. That as far as it respected this state, their march, and the march of empire kept pace. This arose from the circumstance of the representation in the state being founded on the number of electors; and because almost every man in a new country was an elector, under the existing and contemplated qualifications: whilst in the old counties, and especially in cities, there were great numbers who would not be embraced by them. So great was this effect, that the city of New York alone would, under the vote of the other day, have become entitled to additional voters, over those who voted at the election of delegates, equal, or nearly so, to the whole number of votes of Ontario or Genesee. The direct consequence of which would be, that the additional representation of fourteen members, which are next year to be distributed among the counties, would, instead of going principally to the west, be surrendered to the worst population of the old counties and cities.

"And thirdly. The door would have been entirely closed against retreat, whatever might be our after conviction, founded on experience, as to the evil tendency of this extended suffrage.

"The just equilibrium between the rights of those who have, and those who have no interest in the government, could, when once thus surrendered, never be regained, except by the sword. But, according to the present report, if experience should point out dangers, from the very extensive qualifications we were about to establish, the Legislature might relieve against the evil, by curtailing the objects of taxation. By the establishment of turnpikes, the making of canals, and the general improvements of the country, the highway tax would naturally be lessened, and might, if the Legislature thought proper, be hereafter confined to property, instead of imposing it, as they now do, on adult male citizens. For one hundred years at least, this would afford a sufficient protection against the evils which were apprehended. He would, therefore, notwithstanding his desire to have the qualification of *house-holder* added to the electors of the third description remain

unchanged, accept the report of the committee as it was, with the addition of the military qualification, which he thought ought to be adopted, for the sake of principle, if for no other reason.

"He thought the committee, constituted as they were, had done themselves great credit by their concessions to the opinion of those from whom they differed, and he, for one, returned them his sincere thanks. Under all circumstances, he would be well satisfied with the right of suffrage, as it will now be established, and would give it his zealous support, as well in his capacity of delegate, as that of citizen.*

The provision was finally adopted as originally reported by the committee, on this point. Mr. Van Buren concurred in this course which extended the privilege to all who paid any tax, or did military duty, or worked on the highways; though as we have seen, he would have preferred an addition to the last qualification, requiring the candidate in case he possessed neither of the other qualifications, to be a house-holder. He expressed his strong wish to conform to what he believed to be the opinion of the people, and his chief fears seem to have been that the great departure from the former freehold qualification, would hazard the adoption of the whole amendment.

His own sentiments, together with that of the people at large, however, appear to have undergone some modification at a subsequent period, as will be seen by the following extracts from a letter, written by him, in reply to certain questions

* Debates in New York Convention, p. 366.

proposed by a committee of mechanics in Rhode Island.

"By the first constitution of New York, the possession of a freehold estate of the value of two hundred and fifty dollars over and above all debts charged thereon, was necessary to entitle a person to vote for Governor, Lieutenant Governor, and Senators. Members of Assembly were chosen by persons paying taxes *and* possessing freeholds of the clear value of fifty dollars, or renting tenements of the value of five dollars.

"The obvious injustice, and ascertained inutility of this regulation, together with other causes, led, in 1821, to the call of a convention for the revision of our state constitution. Of that convention I had the honor to be a member; and in the discharge of the duties imposed upon me by that situation, I labored, and in conjunction with a majority of the convention, labored successfully, to abolish the freehold qualification. The principle which I then advocated, and which was established by the amended constitution, extended the right of voting for all elective officers of the State Government to every citizen who should contribute to the support of government, either by the payment of taxes in money, or by labor on the highways, or by service, according to law, in the militia. The results of experience and the progress of liberal opinions, soon led to a further extension; and by an amendment to the constitution finally adopted in 1826, the right of suffrage was given to every male citizen of full age, who shall have been an inhabitant of the State for one year, and of the county for six months preceding the election. This provision, however, does not extend to persons of color, who, by the constitution of 1821, are not allowed to vote, unless they have been, for three years, citizens of the state, and for one year before the election, seized and possessed of a freehold of the clear value of two hundred and fifty dollars, and have been rated and paid a tax thereon.

"The government of New York has, for several years, been administered under the liberal system established by the new constitution, and the still more liberal amendment of 1826, in a manner which appears to have been satisfactory to the people. It is possible that there may be some who regret the extension of the right of suffrage, and who would be gratified by the revival of the old

qualifications ; but I do not believe that such a feeling is entertained by any considerable portion of our citizens. I am very sure that any attempt to restrict the exercise of the right, and more especially to restore the freehold qualification, would be put down by an overwhelming majority.

By the old constitution of New York, no distinction was made with regard to *color* in the qualifications of electors. In the Convention of Amendments, a proposition to restrict the right of voting to *white* citizens, was rejected by a vote of *sixty-three* to *fifty-nine*. A long and eloquent debate preceded this rejection : Mr. Van Buren did not participate in the debate, but voted with the majority. At a subsequent period in the business of the Convention, when the qualifications of electors were fixed, the blacks were excluded from the right of voting, unless possessed of a freehold estate, of the value of two hundred and fifty dollars, and were exempted from taxation to a corresponding extent. This provision, which continues to be a part of the constitution of New York, received his assent in the following remarks.

“ Mr. Van Buren said he had voted against a total and unqualified exclusion, for he would not draw a revenue from them, and yet deny to them the right of suffrage.— But this proviso met his approbation. They were exempted from taxation until they had qualified themselves to vote. The right was not denied, to exclude any portion of the community who will not exercise the right of suffrage in its purity. This held out inducements to industry, and would receive his support.”*

* Debates in New York Convention, p. 376.

The state of New York exhibits a fair example of the effects of the utmost latitude of suffrage. With the largest city in the Union ; with a very extensive territory ; with an increasing tide of foreign immigrants ; with a strong infusion of party excitements, she has adopted a rule of qualification for the elective franchise, which rejects no man who has resided one year in her territory, and six months in any of her counties.

Her distinguished prosperity ; the nobleness of her public works and institutions ; the excellence of her laws and of her judicial tribunals ; the prevailing morality and good order of her citizens ; the security afforded by her laws to all the rights of the citizen, and her great political influence in the Union, conspire to demonstrate the utter fallacy of those fears which are entertained by many, of the evils of *Universal suffrage*, and form an unanswerable refutation of all arguments for restricting the political rights, or infringing the political equality of the *people*. Give man the privileges and rights which belong to the species, and he will prove himself worthy of them. He will rise to the dignity he may be left to sustain ; he will find scope and exercise for those qualities of the head and heart which belong, alike, to all humanity. Degrade and oppress him, and he becomes a demon and a brute.

Another matter of great importance, and which occupied a large portion of the attention of the Convention and called forth some of the ablest speeches in that body, was the mode of electing

justices of the peace. The importance of this office was strongly stated by Mr. Van Buren, on one occasion, in the following words. He said "the amount of business before the justices of the peace, in this state, is five times as great as all the business before the other courts. On this point, it appeared to him, there was no room for diversity of opinion : the truth of this statement could be ascertained by a reference to their proceedings. They were equally important as it respected criminal justice."

The committee on the appointing power had reported in favor of the election of justices of the peace, in every town, by the people. Mr. Van Buren strenuously opposed this proposition, both in the select committee of which he was chairman, and in the Convention. His objection was, that magistrates, thus elected, would be too much under the influence of local, party feelings. He proposed that the board of supervisors, in each county, should nominate a suitable number of justices of the peace, and also, the respective courts of common pleas ; and that from these two lists of nominations, the Governor should make the appointment. As the views of Mr. Van Buren on this subject have been somewhat misrepresented, and as the matter, itself, is one of great importance in every state, the following explanations of his opinions are subjoined.

Mr. Van Buren said :—

"It was not to be disguised, that that part of the report before the committee, relating to the appointment of jus-

tices of the Peace, was by far the most important feature in the report—if that was settled, the remaining part of it would be got along with very easily. Some had thought these magistrates ought to be elected; but he had at all times been opposed to their election; and if he did not deceive himself, the force of remarks of gentlemen in favor of their election, had excited doubts in the mind of every man, as to the propriety of such a measure. He concurred in the opinion which had been expressed as to the impropriety of electing the higher officers of state, because their duties were important; and it was to be feared that it would have a tendency to render their judgment subservient to their desire for a continuance in office. This was the principal argument which had been used. If there were other reasons he did not know what they were.

“The amount of business before the Justices of the Peace in this state, was five times as great, as all the business before the other courts—on this point, it appeared to him there was no room for a diversity of opinion—the truth of this statement could be ascertained by a reference to their proceedings. They were equally important as it respected criminal justice.

“As to the probable effect upon their independence, there is no room for a comparison. The Judges of the Supreme Court are elected for a long term of time; should the people become dissatisfied, even whole counties, these officers might not feel the effects of their displeasure till after a long time had elapsed; but apply this to Justices of the Peace, who administer justice in the immediate presence of their constituents, and are exposed to the daily scrutiny of those upon whom they are dependent; who are cognizant of all they do; and have the power of passing judgment on them. If they are not satisfied with them, they must forfeit their offices.

“What could the single arm of a chief magistrate of the state do towards suppressing a rebellion? It must be effected through the interposition of this inferior magistracy. He was willing to go as far as many men, in endeavoring to curtail dangerous patronage in distinct bodies of men; but he would not go so far as to cut every cord that binds together the people and the government.”*

* Debates in the New York Convention, p. 321.

On another occasion he pursued the same subject in the following remarks.

"Mr. Van Buren said he would briefly reply to some of the observations which had fallen from the honorable gentleman from Columbia, (Judge Van Ness,) and would also add a few words in answer to the suggestion of his venerable friend from Queens, (Mr. King.)

"The honorable gentleman from Columbia had examined and discussed the matter with a degree of zeal and ability proportionate to the very deep interest he naturally took in it: in one respect, he said, he fully accorded with him—that in the formation of a constitution of government, they ought to divest themselves of the influence of party. All agree in deprecating party spirit, and many have admonished us, that we cannot be too scrupulously cautious on this subject: he was well satisfied, that, if we all practised upon our own precepts—if we did, in fact, smother all feelings of party, it could not be possible that we should have so much difficulty in providing for the appointment of justices of the peace.

"He could not suppress his apprehension that the immediate effect on the political interests of the state, of which his amendment was supposed susceptible, had called forth much of the opposition it had to contend with. He did not pretend to be more exempt from the influence of party feelings than others; but he would not fail on all occasions, to act openly and above board, and assign the true motives of his vote and conduct.

"The gentleman from Columbia had said, that as yet, we had done nothing for the people—that we had not given them any greater share of influence in the selection of their local officers, than they had before enjoyed. That gentleman's solicitude for the privileges of the people is commendable: but, said Mr. V. B. is the assertion true, sir? If it was, it would be a matter worthy of serious consideration. But, he continued, it is not correct. In the first place, they had given to the people, the right of choosing more than eight thousand militia officers: Was this nothing? But we were told that the public care nothing about this right! In this respect, too, the gentleman was greatly in error. There was no subject on which men felt a more lively interest. Let a militia officer be improperly superseded or supplanted, and they

would find that it was a matter of no small interest or concern with the people. What has induced our respective chief magistrates to travel out of the ordinary course, and indulge in the granting of brevet commissions, if there was no solicitude in regard to military appointments? There was, he said, great anxiety on this subject.

"There are, said Mr. Van Buren, about 6600 civil officers in this state. Of this number, by the report of the select committee it was proposed to leave three thousand six hundred, for which, in consequence of their liability to frequent changes, no constitutional provision was made by the committee, to be appointed in such a manner as the legislature shall designate. Was this nothing? If the people desire to have these officers elected, they will send to the legislature, such men as will obey their wishes in this respect; if they are not made elective, it will be because the people do not wish it; and they can, in this way, bring home to themselves the choice of these three thousand six hundred officers.

"With respect to the residue of the number, it was proposed to leave it with the supervisors of the counties, to nominate as many candidates for each town as there were magistrates to be appointed in them respectively: And that the judges of the courts of common pleas should in like manner nominate for each town; if they agreed, the officers on whom they so agreed, should be thus appointed, and so far only as they disagreed, the lists should be sent to the Governor; from these lists it should be left to the executive to select. The lists presented by the supervisors, would very generally be in accordance with the sentiments of the people, and it must be supposed that they would consult their wishes and views on the subject. And is this, asked Mr. Van Buren, giving chaff to the people?

"We have, sir, continued he, challenged gentlemen to show, why it would not be as fit, and proper to elect the higher judicial officers, as magistrates for the towns; no answer had been given to this enquiry, because none could be given. It must be perfectly obvious, that every consideration that would be urged in favor of electing justices of the peace, would apply in favor of having the judges of the higher tribunals also elective; and that even fewer objections exist to having those courts selected in this way; this had not been mentioned as a threat, that a proposition of that nature would be made; but as an argument to shew the impropriety of having any judicial offi-

cers elected, in order to test the sincerity of some gentlemen's solicitude for the people. In this we are consistent throughout: the inconsistency was on the part of those who were for having the higher judicial officers appointed, and the justices of the peace elected.

"We do not, sir, said Mr. V. B. deny the competency of the people to make a proper choice; this argument has been unfairly and untruly stated. Those who oppose the election of justices, do not do so because they have any distrust of the people. The objection to having them elected, did not flow from that consideration; but was with respect to the officer elected. It was because the magistrate would of necessity be acquainted with all, who opposed and who supported him. This would more or less bias his mind in favor of those, to whom he owed his election. It would be giving the rich and powerful a great advantage over the poor; and even, if it did not, it would excite jealousy and suspicion of unfairness on his part; which in its operation, would be nearly as prejudicial to the public peace, as if real injustice was done. These were the reasons, which had led him, and others, to doubt the propriety of having magistrates elected. The gentleman from Columbia, however, has told us, that there can be no danger from a want of independence, or from the partiality of magistrates—he says their conduct will be watched, and they will not dare to act improperly. Watched by whom? By those whom they intend to favor, and who will be able, and willing to screen them from harm, and support them against the efforts of injured and oppressed poverty, to procure redress!! But the defendant may call a jury if he has not confidence in the justice: a mighty boon, truly! Am I to tell the gentleman from Columbia, how little advantage a jury is to a party, if the court is against them? How, sir, is he to get his facts, on which he relies before the jury? Is not the court the crucible through which they have to pass, before they get there? And does not daily experience prove, that in civil causes, the court can in almost every case, regulate the verdict of the jury, by the exclusive power they possess, to decide all questions of law? Again, we are told that where injustice is done by the magistrate, the party injured, may obtain redress by means of a certiorari! This was a reason, he said, he had hardly expected to have heard from that quarter: the gentleman from Columbia, well knew, that the remedy by certiorari,

would not reach one in twenty cases where injustice had been suffered.

"It is, said Mr. V. B. very desirable to restore peace and quiet to the community: he was willing to do all in his power to promote so worthy an object. But how was this to be done? Will the election of justices by the people, have a greater tendency to remove strife, than the project to have them selected in the manner proposed by the amendment he had submitted? He thought not.

"The gentleman from Columbia, says, this nomination by the supervisors would create violence and strife in their elections, when it is known that they were to present the candidates to be appointed. But if the election of those, who are merely to nominate, will create this violence and strife, he could not perceive why there should be less difficulty, when the officers themselves, were to be directly elected by the people. That they are important offices, the gentleman has himself told us; and he has also told us that their election will call to the polls, all the farmers, and men who have an interest in the due administration of justice: and yet he would have us believe, that the election of magistrates will produce no strife or angry contests: This, said Mr. V. B. I cannot comprehend! It was generally supposed that the degree of warmth and strife at elections, was in proportion to the interest felt by the electors in the result.

"He would add one word in reply to the remarks of the honorable gentleman from Queens. He would have the people select the candidates by ballot, and that the names of those having the highest number of votes, as also of those who had the next highest, should be presented to the courts of common pleas, who should be authorised to appoint the requisite number from among the names thus presented. The consequence of this would be, that in every town, there would be two sets of nominations of different politics, and it would create a strong temptation for the judges to decide purely on party grounds; and so far, therefore, from this being the means of allaying strife, it would greatly increase it. But if the selection should be made by the supervisors and the judges of the courts of common pleas, it was morally certain, that in a vast majority of cases, the same persons would be recommended by both, because they would be of the same politics. We may, said Mr. V. B., speak of the practical operation of this measure, founded on what we all know will happen from the partiality and attachment, which men of the same

political sentiments have for each other, without incurring the censure of being influenced by party motives in bringing forward this proposition. It would operate sometimes in favor of one party, and sometimes of another; the great object was to direct these party attachments to the selection of good men, and to secure the independence of the magistrates—that the laws may be administered without partiality, or suspicion of partiality. Where the supervisors and judges were of the same politics, they would be cautious to recommend none but men of fair characters, and such as were competent; and where they differed, the Governor would select; and in making this selection he would consider himself bound, on all occasions, to take those who were of the same politics with himself; he would most likely be disposed to deal liberally with his opponents.

“The gentleman from Queens, says we must cut asunder all connexion between the executive and the local authorities. I am, sir, said Mr. V. B., in the habit of receiving his opinions with great respect and deference, but on the present occasion he was constrained to differ with him. Why, he asked, should this be done? Is it for the purpose of keeping out of his hands a patronage which would add too much to his power? It was not for the benefit of the chief magistrate that he would confer on him this qualified power in the appointment of magistrates, but for the advancement of the public good. Past experience had proved, that power of this kind added nothing to the stability of the executive; it gave him no strength, but, on the contrary, was calculated to weaken him. We have seen several examples in this state, where the possession of the power of appointment has destroyed its possessors. It was the case in 1807, 1811, 1813, and again upon a very recent occasion. If these officers could be elected by the people, consistently with their necessary independence, and the due administration of justice, he would, without hesitation, vote for it; but he felt a strong conviction that it was wrong in principle to elect judicial officers, and he was very confident its practical operation would be unfavorable to the public interest.

“Such being his sincere opinion, he could not unite with his honorable friend from Queens, to separate the executive entirely from the magistracy of the state, for the sole purpose of destroying patronage and avoiding political influence. That power would be put in the hands of the executive, not for himself, but to secure to the majority of

the people that control and influence in every section of the state to which they are justly entitled. The executive is but their agent to carry their wishes into effect, and this he does upon great responsibility. That supremacy of the majority which it is proposed to surrender, is of vital importance to them. It is the just reward of their fortitude, their patriotism and fidelity, in war, and in peace. It has been hardly earned and fairly won, and they ought to enjoy it. My feelings, sir, do not lead me to such a course. My constituents have not authorised me to make such a surrender, and I have no idea of usurping it.

"Look at the General Government: All its officers are appointed by the general appointing power; no inconvenience has grown out of this practice there—and we have not heard that any one wished to have any change in this part of the constitution of the United States. The United States' officers, might be well chosen in the different states; still it never has been supposed proper to do so, for the sole purpose of stripping the executive of power and influence.

"He was, he said, not only satisfied that it was proper that there should be this connexion between the executive and these local officers, but that the due administration of justice, and the preservation of the public peace, required it. He is charged with the execution of the laws; he must execute them through the agency of magistrates: and would not, he asked, this connexion promote this object? He would call the attention of gentlemen to the state of things which existed during the late war; he would not do so for the purpose of reviving any improper feelings; but to illustrate and enforce the propriety of the sentiments he had advanced. It would be recollected by all, what difficulties and embarrassments had been occasioned by this want of connexion between the executive and the magistracy of the state. The council of appointment were at that time of different politics with the executive, and all the officers of their appointment were opposed to the war and its prosecution. The prejudice which those collisions produced to the public service, and the unceasing and unavailing complaints of the executive, of a want of co-operation of the public officers, surely cannot so soon be forgotten.

"I am, therefore, said Mr. V. B., inasmuch as this power must be vested somewhere, for giving the control to the majority of the state. If, in consequence of the avowal of this sentiment, I subject myself to the charge of intoler-

ance, I submit to it. My conscience acquits me of any such motives. I feel that I may with safety appeal to my political course for an ample refutation of such imputations; and I cannot but think that the number of my political adversaries, who would be constrained to exonerate me, would not be inconsiderable. But, sir, these are matters with which the committee have no concern; they will be no longer troubled with them—the question must be tested by other considerations.”*

Mr. Van Buren’s amendment was finally rejected by a majority of two votes; and, by the provision finally adopted, the appointment was vested solely in the board of supervisors and the courts of common pleas; which proposition, as it approached very nearly to his own, received his assent.

To present a complete view of the services of Mr. Van Buren in the Convention, would make it necessary to transcribe portions of almost every page of its reports. On questions relating to the right of franchise, the distribution of the appointing power, the executive veto, and similar cardinal points, involving important general principles and reaching to the fundamental rights of the people, full extracts have been presented. The views of Mr. Van Buren, on these important and general topics, it has seemed necessary and proper fully to represent. With respect to minor points, referring not to principles but practice, reference must be made to the volume itself.

* Debates in the New York Convention, p. 339.

It will have been seen by the extracts contained in this volume, that Mr. Van Buren's leading subject of consideration was the proper distribution of the appointing power ; that he was in favor of a Governor for two years, with a veto upon all laws so far as to make their re-enactment by two-thirds of both houses necessary to their passage against his consent ; that he was opposed to a bill of rights, as implying some higher authority than the people ; that he was strenuously opposed to a freehold qualification for electors, and in favor of extending the right of suffrage to the utmost limit which the people seemed ready to approve ; that he approved of excluding the blacks from voting without a freehold interest of two hundred and fifty dollars, to which extent they were also to be free from taxation ; that, while he avowed the principle that the dominant party should always possess and exercise the official patronage, yet he maintained, due regard in its distribution should constantly be had for the rights of the minority ; and that he was in favor of placing in the hands of the people, the direct exercise of every right which would not lead to the corruption of public officers. On all occasions, he avowed the great principle, which has ever guided his public conduct, of expressing so far as possible, the *opinion of the people* : to the people, he always referred as the just arbiters of all political measures and the only source of legitimate authority, and in the intelligence, capacity, and honesty of the people, he always exhibited the utmost confidence.

The approbation with which his course in the convention, was received by the people of the state, affords another proof of his intuitive sense of popular feelings and popular rights, and of that innate sympathy between his own feelings and the common feelings of his fellow men, which constitutes the secret of his success in political life, and of the affection and confidence reposed in him.

It has been charged upon Mr. Van Buren that he is the blind tool of party ; that he appears to be supported by popular opinion, because, by a combination of secret manœuvres, he contrives to mould and create that opinion ; that intrigue and management are the only guides of his political course, and that his success is the result of the artifices of a well-drilled corps of subalterns who are bound to his interests, by selfish motives, and guided rather by motives of personal aggrandizement than by a consideration of the public weal.

This charge has originated with men who have no capacity, in their own natures, to appreciate the true secret of his success ; men who have no spontaneous sympathy with the mass of their fellow-men, but contemplate them, wholly, from a wrong position ; who regard the mass of mankind as corrupt and ignorant, and fit *subjects* of government instead of legitimate *sovereigns*. With these mistaken views, no congeniality exists between their own feelings and the feelings of humanity at large. These politicians never meet popular expectation, and consequently never succeed, except by accident, or hypocrisy, or the temporary misleading of

popular judgment. Unable to appreciate the bond of sympathy which unites the true democrat to every member of the democratic family ; unwilling to be content, like him, to gather public sentiment and make it their supreme rule of action, regardless of personal preferences or private aggrandizement; they are engaged in a perpetual struggle against the strong sense of the great mass of their fellow-men, a struggle which, notwithstanding all their artifice, finally prostrates all their schemes of ambition. It is natural for them to ascribe the superior success of the truly great man, to superior adroitness in the same contemptible and unnatural warfare in which they have sought success themselves. Conscious of their own secret motives to obtain influence, and not apprehending that integrity and penetration in the people which leads to their own defeat, while it discriminates and adopts the honest patriotism of others,—they constantly mistake the true causes of political success, and amid mortification and failure, come to regard all public men as dishonest and all political life as a scene of intrigue and corruption. The observance of two plain rules would be of great service to these men ; *first*, to be honest and patriotic themselves, and, *second*, to rely on the honesty, capacity and patriotism of the people.

The whole public course of Mr. Van Buren is a refutation of the imputations which are cast upon him from this quarter. He has never been seen to sacrifice his views of the public weal to schemes of self-aggrandizement, or to the violent dictates of

party spirit. An eminent illustration of the truth of this assertion may be selected from his course in the convention to amend the constitution.

The justices of the supreme court of the state of New York, by the former constitution, were made members of the Council of revision ; a provision which connected them, closely, with party politics. During the period which preceded the amendments of the constitution, the bench of the supreme court was filled with men who had, all their lives been active partizans and who mingled their party principles and prejudices with the discharge of their duties as members of the Council of revision and even as public administrators of justice. They had opposed, thwarted, and reviled the measures of the democracy, with unceasing violence ; and notwithstanding the high respect which their talents and learning, in many instances, commanded, they had incurred, by their partizan activity, the strongest antipathy of the friends of popular rights.

It was the natural consequence of their perseverance in such high-handed measures, that the tenure of their offices should be hazarded, when it came into the hands of an assembly so strongly democratic as the Convention to amend the constitution. The wrongs, which the leading republicans in the Convention had suffered, at the hands of the supreme court, were fresh in their memories ; the evils which had flown from the party violence of the court, were notorious, and it is not surprising that an effort was made to introduce such a modification of the constitution, as should

remove from power, the obnoxious individuals who had thus perverted the high duties of their official station. It is easy, however, for the calm observer to see that a measure having reference to the mere removal of obnoxious public officers, hardly came within the legitimate action of a Convention, assembled to amend the great charter of a people's rights, and furnish a permanent rule of government for a great state.

On this ground, Mr. Van Buren, rising above temporary and personal considerations, and laying aside the influence of party feelings and the recollection of private injuries and persecution,—opposed a re-organization of the judicial department, the only effect of which, would have been, the displacement of the judges then in office. In his views of duty on this occasion, he differed from his personal friends, and from the most distinguished members of that great party of which he was the acknowledged leader. His course, however, was so evidently the result of principle, and so obviously free from personal considerations and selfish motives, that he lost no share of the respect and confidence of his old and valued friends, who, at this painful juncture, lost the benefit of his support. The following extracts from his speech on this occasion, will explain the disinterested motives by which he was governed, and will show the injustice of laying to his charge an adherence to party, to the sacrifice of principle.

“ Mr. Van Buren said, the true and only question presented by the amendment offered by the president, was, whether this committee were prepared to insert an article in the constitution, for the sole purpose of vacating the offices of the present chancellor and judges of the supreme court, to separate them from the other officers in the state, and to apply to them a rule, which had not as yet been applied in a single instance. Gentlemen might attempt to disguise the matter as they would ; it was in vain to hope that it could be understood by the people in any other light. A moment's consideration must satisfy gentlemen, that such was the case. If the Convention had changed the organization of the courts, there would be a propriety in providing for the reappointment of the judges—but this they had not done. The court of chancery was placed by the amendment on precisely the same footing as it now stood in the constitution. How, then, could it be gravely contended, that its introduction into the amendment was for any other purpose than to get rid of the incumbent ? The only alteration made in the supreme court, (if that could be called one,) was the authority given to the Legislature to reduce the number of judges. This, he said, was a power they now possessed, by withholding salaries from all above the number they desired. But assuming that it was in fact an alteration, can the gentlemen from Delaware and Saratoga, flatter themselves with the hope, that this trifling alteration can possibly, with an intelligent public, exempt the amendment they support from the imputation of being a mere personal measure, having, and being intended to have, a personal bearing, and no other ? But to put this matter at rest, let the gentlemen give to their proposition the shape of their argument. If, say they, the Legislature should alter the number, then a re-appointment will be proper ; and to meet such a case, they submit a proposition which requires a re-appointment at *all events*. Let them say, in their amendment, that *if* a change of the number of the judges is ultimately effected, *then* the offices of the present incumbents shall be vacated. Then, and then only, will they be entitled to the benefit of their argument. That, however, he knew would not answer their views. But why reason upon this subject ? The gentlemen have, as in the select committee, thrown off all disguise, and say these offices ought to be vacated ; and it is their desire that the constitution should be made to bend to that purpose. Mr. Van Buren said he had stated that the amendment went to apply this

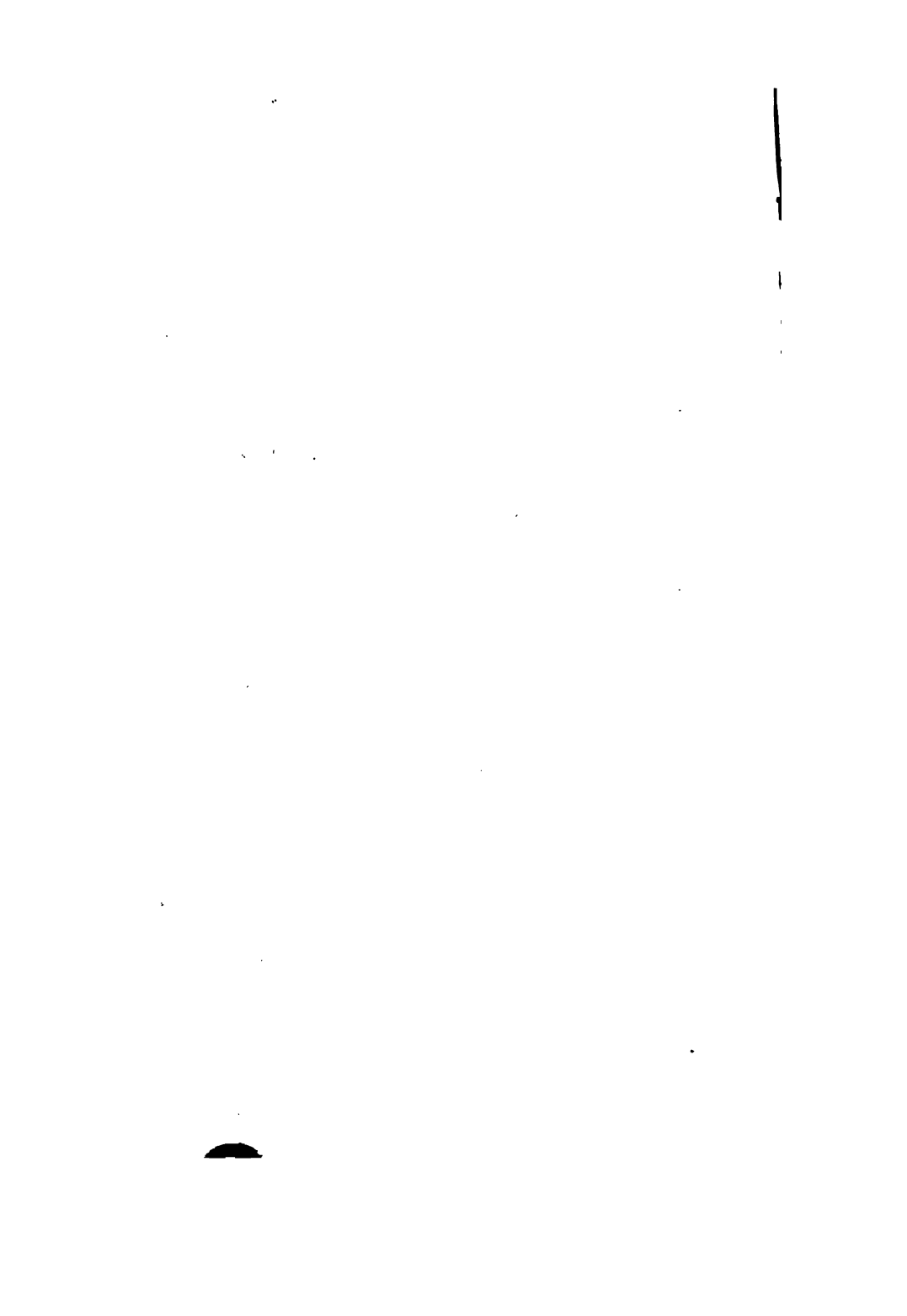
rule of vacating commissions, exclusively to our highest judicial offices. This, he said was strictly true with regard to the attorney-general, secretary of state, surveyor-general, and comptroller. Their offices had not been vacated. The only provision which had been made was to provide for appointments in case of vacancies. The same might be said of the canal commissioners, and of every other office in the state. * * *

"The matter therefore being clear, that the only effect of the amendment would be to turn out of office the present incumbents, he submitted to the convention whether it would be either just or wise to do so. He submitted it, he said, particularly to that portion of the convention, who would be held responsible for its doings, and who would in a political point of view, be the chief sufferers by a failure of the ratification of their proceedings by the people. He warned them to reflect seriously on this most interesting matter. He directed their attention to the never ending feuds and bitter controversies which would inevitably grow out of a loss of the amendments adopted by the convention. He knew well, he said, how apt, men placed in their situation, heated by discussions, and sometimes pressed by indiscreet friends, were to suffer their feelings to be excited, and to lead them into measures which their sober judgments would condemn. It was their duty to rise superior to all such feelings. He asked them to reflect for a moment, and then answer him, whether, when they left home, they had ever heard the least intimation from their constituents, that instead of amending the constitution upon general principles, they were to descend to pulling down obnoxious officers through the medium of the convention : and he asked them whether they were not sensible of the great danger of surprising the public at this advanced stage of the session, when the greatest uneasiness already prevailed, by a measure so unexpected. There was, he said, no necessity for, or propriety in, this measure. They had already thrown wide open the doors of approach to unworthy incumbents. They had altered the impeaching power; from two thirds to a bare majority. They had provided also that the Chancellor and Judges should be removable by the vote of two thirds of one branch, and a bare majority of the other. The judicial officer who could not be reached in either of those ways, ought not to be touched. There were therefore no public reasons for the measure, and if not, then why are we to adopt it ? Cer-

tainly not from personal feelings. If personal feelings could or ought to influence us, against the individual who would probably be most affected by the adoption of this amendment, Mr. Van Buren supposed that he above all others, would be excused for indulging them. He could with truth say, that he had through his whole life been assailed from that quarter, with hostility, political, professional, and personal—hostility which had been the most keen, active and unyielding. But, sir, said he, am I on that account, to avail myself of my situation as a representative of the people, sent here to make a constitution for them and their posterity, and to indulge my individual resentments in the prostration of my private and political adversary. He hoped it was unnecessary for him to say, that he should forever despise himself if he could be capable of such conduct. He also hoped that that sentiment was not confined to himself alone, and that the convention would not ruin its character and credit, by proceeding to such extremities.”*

A similar magnanimity of spirit has controlled the whole public life of Mr. Van Buren, of which a memorable example occurred at a later period, in reference to Mr. Clay’s nomination as secretary of state. It has never been reciprocated, however, by his political opponents.

* Debates in the New York Convention, p. 535.



CHAPTER XI.

MR. VAN BUREN'S course in the Senate of the United States. His views on the subject of Imprisonment for Debt.

It will be our duty, now, to accompany Mr. Van Buren to a more dignified and broader theatre of action. On the third day of December 1821, he took his seat as Senator of the United States, having been appointed by the Legislature of New York, the February preceding. He was, at that time just entering upon the thirty-ninth year of his age.

We have, thus far, followed him through a laborious course of political and professional duties, in his native state, for more than twenty years. We have seen him advancing in his professional career, first to the capital of his county, and then of the state, and finally, filling for several years, her highest law office. We have seen the progress of his political ascendancy, first in his native village,

then in the county, and finally throughout this same great state. We have seen him advance, by industry and perseverance, in his professional course to the pinnacle of his ambition, in despite of manifold disadvantages and discouraging obstacles. We have seen the same indefatigable exertion, the same unwearied zeal, the same consistency and integrity of character, winning the confidence of the political party to which he adhered, until he had gained a share in their affections and a claim on their grateful respect, which rarely falls to the lot of any man.

His progress had been natural, open and reasonable ; the consistent result of honesty, exertion and talent. It is true his laborious and extended legal practice had furnished him with resources of learning, and readiness in argument, which, if viewed only in their full display, at the moment of maturity, were fitted to excite admiration and surprise. So also his long study of the human heart, his great experience in political matters and his pre-eminent good sense had given him a power of interpreting the popular will, and of uniting, harmonizing and directing the feelings of those with whom he acted, which few men ever attain to.

No wonder, therefore, that superficial observers, looking only at the admirable results of his ripper experience, and neglecting the laborious discipline by which he had attained them, ascribed his unrivalled political ascendancy, and the firmness of his hold upon the affections of the people, to some secret, magical influence, some mysterious and un-

discoverable spell, entirely foreign to the true cause.

This shallow prejudice was much strengthened when Mr. Van Buren was seen to rise, at his first entrance into the Legislature of the nation, to the same commanding influence he had long maintained in the councils of his native state. They who ascribed his success at home, not to the laborious exertion of superior talent during nearly a quarter of a century, but to intrigue, artifice and corruption, looked forward to his early confusion and defeat in the United States' Senate : an assembly in which ability, only, can secure influence and respect.

But at this point also, as at every other in his political career, his enemies were doomed to disappointment. His varied intellectual resources, natural and acquired, began to command their appropriate respect, almost upon his first entrance into the Senate ; and before the termination of the first session of his service, he had established, in that high body, which ever embraces some of the most distinguished men in the nation, a reputation surpassed by few of its oldest members.

To furnish a complete view of Mr. Van Buren's services in the Senate of the United States, during the seven years he was a member, would be to transcribe a large portion of its proceedings. I shall, therefore, classify as far as possible, the various subjects upon which his opinions were expressed, during his service in the Senate, and shall endeavor, by extracting some portions of his

speeches and by a careful analysis of others, to present an accurate view of his political sentiments on each important question, and to exhibit, with clearness, to the reader, the leading features of his senatorial career.

On the 17th of December, he was elected a member of the committee on finance and also of the committee on the judiciary. Shortly afterwards, he became chairman of the latter committee, a position which he retained during his continuance in the Senate. His first remarks in the Senate were on the claim of the Marquis De Maison Rouge : a claim which involved the title to about half a million acres of the public lands. This claim was discussed on the 12th of February, 1822. Mr. Van Buren spoke nearly two hours, but the discussion involved too few general principles to justify an extract from his speech. On this debate the National Intelligencer remarked : " the debate was able, and, in the course of it, two of the new members, Mr. Southard and Mr. Van Buren, came forward with a display of much talent and with considerable effect, though on opposite sides." During the same session he made remarks, among other topics, on the apportionment bill ; on the French land claims in Louisiana, and the settlement of difficulties between the states ; and on paying salaries to public officers who were indebted to the United States.

At an early period of his public service, as a member of the Senate of New York, he introduced into that assembly, a bill to abolish imprison-

ment for debt, except in cases of fraud, malicious injury or gross breach of trust. He strenuously brought forward this proposition several years in succession, and finally obtained for it the approbation of the Senate. It however failed in the house of Representatives. The principle was eventually incorporated into the jurisprudence of New York, but not until many years after Mr. Van Buren's removal into the councils of the nation.

In compliance with his views entertained at this early period, so soon as he became a member of the United States' Senate, he co-operated, actively, with Richard M. Johnson, in attempting to ingraft the same great principle upon the jurisprudence of the United States.

Accordingly, we find him as early as January 1823, taking a deep interest in the bill proposed by Col. Johnson, and offering sundry amendments and modifications which were likely to do away objections to the measure and improve its practical operation.

On the 16th of March, 1824, two of these amendments were discussed: one allowed the debtor to be held to bail, on proof, by two witnesses that he was about to leave the country; the other provided that upon charge of fraudulent concealment of property, the fact was to be tried by a jury, and if found to be true, execution was to issue against the body of the creditor.

In connection with this subject he made a few remarks, the substance of which, as imperfectly re-

ported, has already been laid before the public. Having on a former occasion introduced an explicit declaration of his views on this subject, it will not be necessary to repeat them at the present time.

CHAPTER XII.

MR. VAN BUREN *proposes to amend the constitution of the United States so as to keep the choice of President and Vice President from the House of Representatives. Extract from his speech on that subject.*

The reader's attention will next be directed to Mr. Van Buren's views with regard to the mode of electing the President and Vice President of the United States.

In his action on this subject, he appears to have set out with the conviction that there was the utmost necessity of removing the election, if possible, from the house of Representatives. By the present system, when the election comes into the house, the small states are on an equality with the large; and this is the source of their objection to an amendment referring the ultimate choice to electors. To meet the surrender of this right, on the part of the small states, Mr. Van Buren proposed to divide the states into as many districts as its number of electors; each district to choose an

elector ; the electors to vote for President and Vice President, and in case of no choice, upon being again convened by the President, to vote for one of the two highest candidates, and then in case of no choice, the election to go to the house of Representatives, as at present.

This proposition was, in substance, sustained by Mr. Van Buren through three successive sessions of Congress. As the subject is still in agitation and is among the most important upon which public opinion is to be formed, an extract from Mr. Van Buren's remarks at the time of introducing his amendment will here be subjoined.

"Having said this much upon that branch of the subject, Mr. Van Buren would proceed to state briefly another point, in which the proposition he offered differed essentially from the others proposed, and in which difference was involved a principle in the government, as important, in his view, as any which had for some time been discussed on that floor. In doing so, it was a subject of gratification to him, that this principle had no reference to the relative and conflicting interest of the states in the confederacy, but looked equally to the welfare and security of all. To a correct understanding of the point, he wished to present, it became necessary to take a brief view of the principle upon, and the circumstances under which, our present form of government was established. Under the articles of confederation, the representation of each state in the General Government was equal. The Union was in all respects purely federal, a league of sovereign states upon equal terms. To remedy certain defects, by supplying certain powers, the convention which framed the present constitution was called. That convention, it is now well known, was immediately divided into parties, on the interesting question of the extent of power to be given to the new governments : whether it should be *federal* or *national* ; whether *dependent* upon or *independent* of the *state governments*. It is equally well known that that point, after having several times arrest-

ed the proceedings of the convention, and threatened a dissolution of the confederation, subsequently divided the people of the states on the question of ratification. He might add, that with the superadded question of what powers have been given by the constitution to the federal government, to the agitation of which the feelings which sprung out in the convention greatly contributed, it had continued to divide the people of this country down to the present period. The party in the convention in favor of a more energetic government, being unable to carry, or, if able, unwilling to hazard the success of the plan with the states, a middle course was agreed upon. That was, that the government should be neither federal nor national, but a mixture of both. That of the Legislative Department, one branch, the power of representation should be wholly national, and the other, the Senate, wholly federal. That in the choice of the Executive, both interests should be regarded, and that the Judicial should be organized by the other two. But, to quiet effectually the apprehensions of the advocates for the rights and interest of the states, it was provided that the General Government should be made entirely dependent for its continuance, on the will and pleasure of the state governments. Hence, it was decided that the house of Representatives should be apportioned among the states, with reference to their population, and chosen by the people; and power was given to Congress to regulate and secure their choice, independent of, and beyond the control of the state governments. That the Senate should be chosen exclusively by the State Legislatures, and that the choice of the electors of President and Vice President, although the principle of their apportionment was established by the constitution, should in all respects, except the time of their appointment and of their meeting, be under the exclusive control of the Legislatures of the several states. The scheme of government thus formed, was submitted to the people of the respective states, through their Legislatures, for ratification. For a season its ratification was warmly opposed in almost every state. Although the control over the choice of but one branch, of one department of the government, was vested in Congress, danger to the rights of the states was every where apprehended, and the question of ratification of the constitution rendered extremely doubtful.

“To stem this torrent of opposition, the most distinguished commentators on the proposed plan (the authors

of the federalists) placed strongly and truly before the people of the states, the fact of the dependence of the General upon the state governments, and the constitutional right of those governments, or even a majority of them, if the power they had conferred should be abused, to discontinue the new government by withholding its Senate and Chief Magistrate. Among other things they said— 'the state governments may be regarded as constituent and essential parts of the Federal Government, whilst the latter is no wise essential to the operation or organization of their power. *Without the intervention of the State Legislatures, the President of the United States cannot be elected at all.* They must in all cases have a great share in his appointment, and will perhaps, in most cases themselves determine it. The Senate will be elected absolutely and exclusively by the state Legislatures. Even the House of Representatives, though drawn immediately from the people, will be chosen very much under the influence of that class of men whose influence over the people obtains for themselves an election into the state Legislatures. *Thus each of the principal branches of the Federal Government will owe its virtue more or less to the favor of the state governments and must consequently feel a dependence which will be much more likely to beget a disposition too obsequious than too overbearing toward them.*' The ratification by a sufficient number of the states was obtained. On reference, however, to the proceedings of the state conventions, it will be seen, that in several of the states, the control by Congress, over the choice of Representatives merely, was strongly remonstrated against. That amendments were proposed for its qualification, by the states of South Carolina, North Carolina, Virginia, Massachusetts, New Hampshire, Rhode Island and New York. That most of them resolved that it should be a standing instruction to their delegates in Congress, to endeavor to effect that and other amendments proposed. The proposition of the gentleman from New Jersey, to which Mr. Van Buren had alluded, would, if adopted, break an important link in the chain of dependency of the general upon the state governments. It would surrender to the General Government all control over the election of President and Vice President, by placing the choice of electors on the same footing with that of Representatives. It would at this time be premature to go into a minute examination of the provisions of the resolution alluded to, to show that such would

be its effects. Upon examination, it will be found that such would be its construction. That it does in substance what another proposition, upon their table, originating in the other house, does in words. But even was there doubt upon that subject, that doubt should be removed by an express provision, reserving to the states their present control over the election, except as to what is particularly provided for in the resolution now proposed. If it is fit to take from the states their control over the choice of electors of President and Vice President, and give it to the Federal Government, it would be equally proper, under the popular idea of giving their election to the people, to divide the states into districts for the choice of Senators, as was proposed in the convention, and give to Congress the control over their election also. If the system be once broken in upon in this respect, the other measure will naturally follow, and we will then have what was so much dreaded by those who have gone before us, and what he feared would be so much regretted by those who come after—a completely consolidated government—a government in which the state governments would be no otherwise known or felt than as it became necessary to control them. To all this, Mr. Van Buren was opposed. He was so, because it was a matter not necessary or fitly connected with the subject under consideration; that being a question between the states themselves, as to their relative interest—a question which might and ought to be settled, and leave their relation to the Federal Government as it stands at present. The other is a question between the states, collectively, and the Federal Government, affecting most materially the relation they now bear to each other. But, even if it were presented under different circumstances, he would oppose it. Because, however ardent his attachment to the Federal Government, and however anxious he might be to sustain it, in the exercise of the powers given to it by the constitution—and, in that respect, he would, he trusted, go as far as any man ought to go—he was unwilling to destroy or even to release its dependence on the state governments. At the time of the adoption of the federal constitution, it was a question of much speculation and discussion, which of the two governments would be most in danger from the accumulation of influence by the operation of the powers distributed by the constitution. That discussion was founded on the assumption that they were, in several respects, rival powers, and that such

powers would always be found in collision. The best lights which could then be thrown upon the subject, were derived from the examples afforded by the fates of several of the governments of the old world, which were deemed to be, in some respects, similar to ours. But the governments in question having operated upon, and been administered by, people whose habits, characters, tempers, and conditions, were essentially different from ours; the inferences to be derived from that source were, at best, unsatisfactory. Mr. Van Buren thought that experience, the only unerring criterion by which matters of this description could be tested, had settled for us the general point of the operation of the powers conferred by the constitution upon the relative strength and influence of the respective governments. It was, in his judgment susceptible of entire demonstration, that the federal constitution had worked a gradual, if not an undue, increase of the strength and control of the General Government, and a correspondent reduction of the influence, and, consequently, of the respectability of the state governments. The evidence in support of this position was abundant, and, if the matter should come under full discussion, could be readily afforded. He thought, further, that existing causes, which were every day gaining force, would, for the future more rapidly increase that operation. He considered the qualified dependence of the General upon the state governments, as their strong arm of defence to protect them against future abuses. Under that view of the subject, he was opposed to so material a change of the present condition of the respective governments, as would be produced by the amendment to which he objected. He was in favor of leaving matters in that respect, as they stood. Under this impression Mr. Van Buren had prepared a resolution which avoided the defect attaching to that of the gentleman from New Jersey; requiring the contemplated division of the states into districts, to be co-extensive with the number of electors instead of Representatives, and, at the same time, secured the great object upon which he had been commenting."

The proposition to amend met with but little favor, in the house of Representatives, and on the 8th of May 1826, we find Mr. Van Buren reluctantly

consenting to its postponement to another session, but pledging himself to persist in sustaining it in the following words :

“Mr. Van Buren said, he would if his life was spared, unite his exertions with those of the Chairman, to press the matter to a favorable conclusion early in the next session ; and notwithstanding that the question would have to be decided by the same house of Representatives, he would do so in full confidence, that their labors would be crowned with complete success. He would briefly state his reasons for that belief. He was satisfied that there was no one point on which the people of the United States were more perfectly united, than upon the propriety, not to say, indispensable necessity, of taking the election of President from the house of Representatives. The experience under the Constitution, as it stands, as well formerly as recently, had produced that impression, and he considered the vote of the house of Representatives as the strongest manifestation of its existence. In that respect, it would be of value, but beyond that, it could produce no results. Although it could, he thought, be satisfactorily shewn, that the small states would, if nothing more was done, be better off than they are under the constitution, as it stands, still all experience has shewn that they do not think so. There is no reason to believe that they will ever consent to give up the power they now have without an equivalent, without a resort to the principle upon which the constitution was founded, that of compromise. The equivalent with which they would be satisfied, with which they ought to be satisfied, is the breaking up of the consolidated strength of the large states, by the establishment of the district system. It is in vain, therefore, for gentlemen to be, or to affect to be, in favor of taking the election from the house, unless they are willing to do that also, without which the leading object cannot be effected ; without that, all is empty profession. We must, for the purpose of the election, make all the states of the same size, which would be the effect of the district system, and then, and then only, can we give the election of President and Vice President to the people, preserve the purity of the system, and in reality, restore the balance of power among the states to the footing on which it stood at the adoption of the constitu-

tion. Believing that the desire to take the election from the house had sunk deep in the public mind, knowing the all powerful agency which public sentiment fortunately had in our government, he had the strongest hopes that the correct sentiment which now happily existed upon this one point would be able to carry the other with it. He hoped, and believed, that the people of the United States would, in the coming recess, in all constitutional forms, express their opinion upon this subject. If they did so, and if they really desire the election of their Chief Magistrate, and were true to themselves, another session would not pass by, without an opportunity being furnished to the states to express their opinion upon this most interesting subject; a subject with which, in his opinion, the future welfare of the country, and the liberties of its citizens, were more closely connected than any other which had been agitated in Congress since the adoption of the constitution."

CHAPTER XIII.

MR. VAN BUREN'S *proposed amendment of the Judiciary system of the United States. His speech on the Judiciary system.*

As chairman of the committee on the Judiciary, that department received a large share of Mr. Van Buren's attention and engrossed a large amount of his labors. Various bills were reported, at different times, of which the object was to extend the benefit of the Circuit Courts to the western states. Two great principles were chiefly contended for in the Senate; one went to establish District Courts to the necessary extent, to exercise the functions of the present Circuit Courts; and to relieve the judges of the Supreme Court from any other duties than holding a revisory court in Washington. The other plan proposed to add to the number of judges of the Supreme Court, and require them to travel on the several circuits, as at present.

The first bill reported by Mr. Van Buren as Chairman of the Judiciary Committee, on the 11th of March 1824, was on the former principle. It did not, however, meet favor in the Senate, and if it ever had the approbation of Mr. Van Buren, he afterwards became decidedly averse to a separation of the Supreme Court from the Circuits. On the 9th of January 1826, he reported, from the judiciary committee, a bill which established three new circuits and added three new judges to the Supreme Court. His speech in explanation and support of this bill, delivered in the Senate on the 7th of April following, is one of the most elaborate and eloquent to be found in the debates of that body. In the outset of this truly great speech, he states, with his usual distinctness and brevity, the necessity of some alteration in the existing system. This was embraced under three heads.

1st. The great accumulation of business in the Supreme Court :

2d. The unfinished business in the Circuit composed of Ohio, Kentucky, and Tennessee :

3d. The exclusion of six states, viz. Illinois, Missouri, Indiana, Alabama, Mississippi and Louisiana, from the benefits of the Circuit Court.

These positions were illustrated by a most imposing array of facts, collected with great industry and arranged in the most lucid and forcible order.

After thus exhibiting the evil to be remedied, and commenting upon the intrinsic difficulties which attended every alteration of the present system, he entered into a full examination of the

various remedies proposed. He strenuously objected to all schemes which involved a separation of the Supreme Court from the Circuits ; as it would withdraw them from the power of public opinion, a power which he characterized "as the most honest and best of all powers," and would render the court an appendage of the national government, in the highest degree dangerous to the states. The attention of the reader is earnestly requested to the following extracts from this speech ; they depict the enormous powers of the Supreme Court and its constant tendency to amplify its jurisdiction, in the clearest colors ; at the same time, the tone of remark is free from asperity, and characterized by great respect for the important tribunal whose functions were under examination. The speaker's first object is to show the impolicy of separating the Supreme Court from the Circuits.

"By the present Judiciary act it is provided, 'that the laws of the several states, except where the constitution, treaties, or statutes of the United States, shall otherwise require or provide, shall be regarded *as rules of decision* in trials at common law, in courts of the United States, in cases where they apply.'

"In many, if not most, of the controverted cases between individuals, of which the Federal Courts derive jurisdiction from the character of the parties, the titles under which they claim, or from other sources, the local or state law forms the rule of decision. An intimate knowledge of that is, therefore, an indispensable qualification for a judge of the Supreme Court. The difficulty of acquiring and retaining it is infinitely greater than would, on first impression, be supposed. Of the twenty-four states, there are not two whose laws, affecting the rights of persons and property, are, in all respects, the

same. Between many the differences are as great as is usual between states on different continents. Each has an established system, wholly unconnected with its sister states. The system is composed of portions of the English common law, adopted with various modifications and alterations, of more or less of the principle of the English equity system, of the statutes of the states, and the constructions which have, from time to time, been put upon them by the state judicatories. It is true that these are all to be found in books, but we well know how little apt men are, when they can avoid it, to study subjects of this description, and men of experience in these things know the extreme difficulty, not to say impracticability, of making one's self at all familiar with them in any other way than by actual practice in the courts, either in examining them for argument, or in deciding them from day to day. * * *

"There is another consideration belonging to this branch of the subject, entitled to great weight. It is impossible, with the best intention on the part of the executive branch of the government, to avoid bad appointments. Influence and favoritism sometimes prevail, and to a want of correct information the government is always exposed. Incompetent men, therefore, will sometimes be appointed. If confined to the discharge of term duties only, the country may be saddled with them during their whole lives. They might assent or dissent at terms, and the kindness of their brethren, and their respect for the character of the court, would induce them to do as the rest. But the case is greatly otherwise, if they are obliged to preside at Circuits, to discharge their high duties in the face of the people, unaided by their brethren of the bench. There is a power in public opinion in this country, "and I thank God for it;" for it is the most honest and best of all powers, which will not tolerate an incompetent or unworthy man to hold in his weak or wicked hands, the lives and fortunes of his fellow-citizens. This power operates alike upon the government and the incumbent. The former dare not disregard it, and the latter can have no adequate wish that they should, when he once knows the estimation in which he is held. This public ordeal, therefore, is of great value; in my opinion, much more so than what has, with some propriety, been called the *scare-crow* of the constitution, the power of impeachment.

"But there is still another view of the subject, bearing, with irresistible force, against the separation of the Justices of the Supreme Court, under any circumstances, from the Circuit Courts, and against the adoption of any system, which, though it does not directly, may, ultimately, lead to that result. * * *

"Hitherto, the justices of the Supreme Court have resided in the states, and with a single individual exception, within their respective Circuits. Before the act of 1802, because the principal part of their business was there; since 1802, because the law made it their duty. If other provision is made for holding the Circuits, the whole business of the justices of the Supreme Court would be done here, and, sooner or later, they would, in the natural course of things, all move to, and permanently reside at, the seat of Government.

"From that result, inferences, of a contrary character, but uniting in deprecating its policy, are drawn. Some think they see in it danger to the Court, others apprehend danger from the Court. In my judgment both are right.

"It has been justly observed elsewhere, that 'there exists not upon earth, and there never did exist, a judicial tribunal clothed with powers so various and so important, as the Supreme Court. * * *

"Not only are the acts of the National Legislature subject to its review, but it stands as the umpire between the conflicting powers of the General and state Governments. That wide field of debatable ground between those rival powers is claimed to be subject to the exclusive and absolute dominion of the Supreme Court. The discharge of this solemn duty has not been unfrequent, and certainly, not uninteresting. In virtue of this power, we have seen it holding for naught the statutes of powerful states, which had received the deliberate sanction, not only of their Legislatures, but of their highest Judicatories, composed of men venerable in years, of unsullied purity, and unrivalled talents, statutes, on the faith of which immense estates had been invested, and the inheritance of the widow and the orphan were suspended. You have seen such statutes abrogated by the decision of this Court, and those who had confided in the wisdom and power of the state authorities, plunged in irremediable ruin. Decisions, final in their effect, and ruinous in their consequences. I speak of the power of the Court, not the correctness or incorrectness of its decisions. With that we have here nothing to do.

"But this is not all. It not only sits in final judgment upon our acts, as the highest legislative body known to the country ; it not only claims to be the absolute arbiter between the federal and state governments, but it exercises the same great power between the respective *states* forming this great confederacy, and *their own citizens*. By the constitution of the United States, the states are prohibited from passing 'any law *impairing the obligation of contracts*.' This brief provision has given to the jurisdiction of the Supreme Court a tremendous sweep. Before I proceed to delineate its tendency and character, I will take leave to remark upon some extraordinary circumstances in relation to it. We all know the severe scrutiny to which the constitution was exposed. Some from their own knowledge, others from different sources. We know with what jealousy, with what watchfulness, with what scrupulous care its minutest provisions were examined, discussed, resisted, and supported, by those who opposed, and those who advocated its ratification. But, of this highly consequential provision, this provision which carries so great a portion of all that is valuable in state legislation to the feet of the federal judiciary, no complaints were heard, no explanations asked, no remonstrances made. If there were, they have escaped my researches. It is most mysterious, if the constitution was then understood, as it now is, that this was so. An explanation of it has been given, how correct I know not.

"The difficulties which existed between us and Great Britain relative to the execution of the treaty of peace, are known to all. Upon the avowed ground of retaliation for the refusal of England to comply with the stipulation on her part, laws were passed, between the years 1783 and 1788, by the states of Virginia, South Carolina, Rhode Island, New Jersey, and Georgia, delaying execution, liberating the body from imprisonment on the delivery of property, and admitting executions to be discharged in paper money. Although those laws were general in their terms, applicable as well to natives as to foreigners, their chief operation was upon the British creditors, and such was the leading design of their enactment. England remonstrated against them as infractions of the stipulation in the treaty, that creditors, on either side, should meet with no impediments to the recovery of the full value, in sterling money, of all debts previously contracted, and attempted to justify the glaring violations of the

treaty, on her part, on that ground. An animated discussion took place between the federal government and Great Britain, and between the former and the states in question, upon the subject of the laws referred to, their character and effect. It was during this time that the constitution was formed and ratified. It is supposed that the difficulties, thus thrown in the way of adjustment with England, through the acts of the state governments, suggested the insertion in the constitution of the provision in question, and that it was under a belief that its chief application would be to the evil then felt, that so little notice was taken of the subject.

"If it be true, that such was its object, and such its supposed effect, it adds another and a solemn proof to that which all experience has testified, of the danger of adopting general provisions for the redress of particular and partial evils. But, whatever the motive that led to its insertion, or the cause that induced so little observation on its tendency, the fact of its extensive operation is known and acknowledged. The prohibition is not confined to express contracts, but includes such as are implied by law, from the nature of the transaction. Any one, conversant with the usual range of state Legislation, will, at once, see how small a portion of it is exempt, under this provision, from the supervision of the seven judges of the Supreme Court. The practice under it has been in accordance with what should have been anticipated.

"There are few states in the Union, upon whose acts the seal of condemnation has not, from time to time, been placed by the Supreme Court. The sovereign authorities of Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, Missouri, Kentucky and Ohio, have, in turn, been rebuked and silenced, by the over-ruling authority of this Court. I must not be understood, sir, as complaining of the exercise of this jurisdiction by the Supreme Court, or to pass upon the correctness of their decisions. The authority has been given to them, and this is not the place to question its exercise. But this I will say, that, if the question of conferring it was now presented for the first time, I should unhesitatingly say, that the people of the states might, with safety, be left to their own Legislatures, and the protection of their own Courts.

"Add to the immense powers of which I have spoken, those of expounding treaties, so far, at least, as they bear upon individuals, citizens, or aliens, of deciding contro-

versies between the states of the confederacy themselves, and between the citizens of the different states, and the justice of the remark will not be questioned, that there is no known judicial power so transcendently omnipotent as that of the Supreme Court of the United States!

"Let us now, for a few moments, consider the influence which this ought to have upon our legislation. It would not be in accordance with the common course of nature to expect that such mighty powers can long continue to be exercised, without accumulating a weight of prejudice that may, one day, become dangerous to an institution which all admit to be of inestimable value. It is true, as has elsewhere been said, with apparent triumph, that the states, whose legislative acts have successively fallen under the interdiction of the Court, have excited little or no sympathy on the part of their sister states, and, after struggling with the giant strength of the Court, have submitted to their fate. But, sir, it is feared that this will not always be the case. Those who are most ardent in their devotion to this branch of the government, knowing the feelings produced by these decisions in the states affected by them, sensible that those feelings are rather smothered than abandoned, upon conviction of their injustice, fear that, by adding another and another state to the ranks of those who think they have reason to complain, an accumulation of prejudice may be produced, that will threaten, if not endanger, the safety of the institution."

"Seeing, and feeling, and fearing this, they, with wise and patriotic foresight, wish to adopt every measure which will retain and increase, as far as practicable, the general confidence in the Court, and to avoid such as may, by possibility, have a tendency to weaken it. No reflecting man can doubt, that the residence of the judges of the Supreme Court in the states, being subject in their persons, family, and estates, to the laws of the state, portions of their families, as is frequently the case, members of the state governments, and themselves only temporarily absent, going in and out before the people of the states, and commanding their confidence by the purity of their lives, and the modesty of their demeanor, enforcing and expounding their own decisions in the face of the different classes of the community at the Circuits, and in free and familiar intercourse with those who have such great influence in giving a proper direction to public opinion on legal subjects, must have an infinitely greater tendency

to enable the judges to sustain themselves in the honest discharge of their high duties, than if they were cut off from all connection with the states. Greater than if they were settled in this metropolis, and to the great mass of the people of the states unheard and unseen, but felt in their power, through the remotest borders of the Union; and how felt, sir? Not as is the case with the other branches of the government, in extending favors, in munificent grants and all the various measures of relief,—no, sir, always on one side, and not unfrequently on all sides, their measures are regarded as harsh and vindictive. Their business is to punish the guilty, to restrain the vicious, to curb power, and to correct its excesses. Such acts are necessary to the well-being, to the very existence of society, but are not those which have the strongest tendency to conciliate popular favor. It is to effect this object, in part, that the friends of the bill, as I cannot but think wisely so, zealously resist every measure which will or may separate the Justices of the Supreme Court from the Circuits, and bring them to this city.

“But this is not the only, or the most interesting view, which may be taken of the subject. The political character of the Court, so far as it becomes its duty to pass on the laws of the respective states, affecting personal rights, has already been referred to. A few cursory observations upon the character and tendency of its jurisdiction, so far as it relates to the powers of the general and state governments, considered as independent, and, in many respects, rival states, will conclude my remarks on this branch of the subject.

“The unfortunate extent of the grounds of collision between the respective governments, has already been referred to. It was beyond the wit of man, in the constitution of a government like ours, to have wholly avoided it, and it can only be lessened by mutual forbearance and explanatory amendments. He must be but a superficial observer of events, who is not sensible that it is a subject which is every day attracting more of public attention and solicitude. There are those, sir, and they are neither small in number, nor light in character, who think that the uniform tendency of the political decisions of the Supreme Court has been to strengthen the arm of the General Government, and to weaken those of the states. Such men think that danger to the state governments is to be apprehended from permanently fixing the Judges of the Supreme Court at the seat of the federal government.

They fear, (to use an expression, which, though not literally applicable here, still so well conveys the idea) that it would be 'establishing a power behind the throne stronger than the throne itself.' Thus thinking, they commenced, as far back as the now vindicated, but formerly much abused, act of 1802, to confine the Justices of the Supreme Court to their respective Circuits, and that course has been persevered in to the present day. They think the inevitable tendency of a change would be for the worse, that, if the Judges come here under the eye of the government, prominent parties as they always must be to all collisions between the respective governments, they could not fail to embark more strongly in the feelings of men in power here, than they now do.

"Sir, this has become a subject on which it is difficult for one to speak without unpleasantly encountering the strong opinions entertained on different sides of the question. On the one hand, expressions of distrust and dissatisfaction are heard, of a character so strongly marked, as to defeat their object and recoil upon their authors. On the other, a sentiment, I had almost said, of idolatry for the Supreme Court, has grown up, which claims for its members an almost entire exemption from the fallibilities of our nature, and arraigns with unsparing bitterness the motives of all who have the temerity to look with inquisitive eyes into this consecrated sanctuary of the law. So powerful has this sentiment become, such strong hold has it taken upon the press of this country, that it requires not a little share of firmness in a public man, however imperious may be his duty, to express sentiments that conflict with it. It is nevertheless correct, sir, that in this, as in almost every other case, the truth is to be found in a just medium of the subject. To so much of the high-wrought eulogies, (which the fashion of the times has recently produced in such great abundance) as allows to the distinguished men who now hold in their hands that portion of the administration of public affairs, talents of the highest order and spotless integrity, I cheerfully add the very humble testimony of my unqualified assent. That the uncommon man who now presides over the Court, and who I hope may long continue to do so, is, in all human probability, the ablest Judge now sitting upon any judicial bench in the world, I sincerely believe. But to the sentiment, which claims for the Judges so great a share of exemption from the feelings that govern the conduct of other men, and for the Court the character of

being the safest depository of *political power*, I do not subscribe. I have been brought up in an opposite faith, and all my experience has confirmed me in its correctness. In my legislation upon this subject, I will act in conformity to those opinions. I believe the Judges of the Supreme Court, (great and good men as I cheerfully concede them to be,) are subject to the same infirmities, influenced by the same passions, and operated upon by the same causes that good and great men are in other situations. I believe they have as much of the *esprit du corps* as other men, those who act otherwise, form an erroneous estimate of human nature : and if they act upon that estimate, will, soon or late, become sensible of their delusion.

I conscientiously believe, that, to bring the Judges of the Supreme Court to the seat of the General Government, and making them, as it were, a part of the administration, for such, it is to be feared, would soon be its effect, would bode no good to the state governments. With feelings for the General Government, as I humbly hope, purely catholic, I firmly believe, and my daily experience confirms that conviction, that much, very much of the present prosperity of the country and its institutions, depends upon the successful action of the state governments, and that the preservation of their rightful powers is the *sine qua non* of our future welfare. I will not, therefore, give my assent to any measure which may still further disqualify the states to sustain themselves in those collisions of power which are unavoidable, and in which the situation of the parties is already so unequal. I believe a different disposition of the Judges of the Supreme Court from that provided by this bill, would have such effect, and I am, therefore, most decidedly opposed to it. Sir, it would be strange if the tendencies of this high tribunal were not such as I have supposed ; unless, indeed, they were more or less than men. It is not only made by this government, and sustained by this government, its members not only owe to it all they have and are to be, but they are the only portion of it that is permanent, that is beyond the reach of any power known to the constitution. The billows of faction may run mountains high, and yet not reach them. The indignant voice of an abused people may, at stated periods, sweep by the board every other portion of the men in power, may take from them the little brief authority under which they have strutted their busy hour upon the stage, and caused

to be seen no more, but the Supreme Court alone, 'can never be palsied by the will of its constituents.' And, sir, all things considered, it is best that it is so."

The above remarks of Mr. Van Buren are deserving of the most serious attention of the American people: for, in the view of the present writer, the powers, attempted to be exercised by the supreme court, within the last few years, are cause of the most serious alarm. A majority of that court appears to have acted, steadily, on the antiquated maxim, "*boni est judicis amplificare jurisdictionem*," and the whole tenor of their decisions, for more than a quarter of a century, has been to strengthen and extend their own powers, and to bring the several state governments, in subjection to the federal government. They have recognized the alarming doctrine of implied powers in the constitution, flowing from a latitudinarian construction of that instrument: they have abrogated state laws, and lent their influence to sustain the constitutionality of a national bank; they have, on a recent occasion, placed themselves in array against the authority of a state, on questions relating to the local administration of criminal justice in that state, and their friends have claimed for them the right of dictating to the co-ordinate, executive department of the government, its duties and responsibilities, when a compliance with that dictation would have involved the country in civil war.

The firmness of the present venerable chief magistrate has rescued the country, in a great de-

gree, from the evil consequences of these dangerous principles ; but it is certainly true that the great body of the American people have been led, by the high handed doctrines of the court, to favor such a modification of that department of the government, as shall bring it within the power of public opinion, and check its encroachments upon the rights of the states and of the other departments of the government of the United States.





CHAPTER XIV.

Speech of Mr. Van Buren on the establishment of a uniform system of Bankruptcy.—Brief remarks on the public lands.—Extracts from his speech on the colonial trade.

IN the winter of 1827, the attention of Congress was much occupied with a bill to establish a uniform system of bankruptcy. The term bankrupt, in England, is confined to persons engaged in commercial operations, and the English bankrupt laws apply only to that class. By the ninety-third section of the bill proposed in the Senate, the provisions of the act were to extend to all classes, as well as to merchants. Mr. Van Buren, on several occasions, took an active part in discussing the general bill : his sentiments on the general question, and on the particular section above mentioned, are contained in the following brief extract from a speech delivered on the 23d of January 1827.

On a motion to strike out the ninth section :



"Mr. Van Buren said, that, as the decision of the immediate question before the Senate would control his course on the final passage of the bill, he felt himself constrained to state the principles which would govern him in the vote he was about to give. He might not, he said, be as sanguine in his expectations of the benefits to be anticipated from the establishment of an uniform system of bankruptcy, as some of his colleagues of the committee; but he was not less anxious than they that such a measure should receive the sanction of Congress at the present session. He was aware of the serious and imposing objections that had heretofore been made to the system, and that would always be made, whenever its establishment was attempted. He was sensible of the argument that was to be derived from the unfortunate result of the only experiment that had been made upon the subject by the federal Government. He was, notwithstanding, willing to repeat it. He felt so disposed, not only because he was satisfied that a great proportion of his immediate constituents desired it, but because he believed their claim upon Congress for the exercise of its constitutional powers in this respect, could be sustained on the ground of policy as well as justice. * * *

"But, said he, when I say I am in favor of a bankrupt system, I mean to be understood as speaking of a bankrupt system in the language of the constitution, and such as was in contemplation by the framers of that instrument. All the other provisions of the bill, he said, were of that character, and had met his approbation in the committee. The 93d section was not, and had never received his sanction. It was an insolvent, and not a bankrupt law. It was such a bill as Congress had no right to pass. He said, he was aware of the ingenuity which had been, and might again be used, to confound the bankrupt and insolvent systems—an ingenuity which had before, and might again, embarrass the question as to the relative powers of the federal and state Governments. He was conscious of the difficulty, (difficulty arising from the decisions of the Courts, and the frequency and contrariety of legislation in England) that existed in laying down a clear and unexceptionable rule of discrimination between bankrupt and insolvent laws. For the present, at least, he should not attempt it. He would content himself with the general declarations—that, for nearly three hundred years, the two systems had been kept distinct in England: That they differed in their origin, object, and provisions, and

had always, there and here, been executed by different tribunals: That, at the time of the adoption of the Constitution, they were known and distinguished, both in England and in this country, as distinct systems—the one having for its object to afford a summary and speedy remedy for creditors against fraudulent or failing traders; the other affording relief to insolvent debtors of all denominations. The constitution of the United States, he said, had clothed the National Legislature with power to establish the former, and had left the right to pass, and the duty of establishing the latter upon the state governments. The 93d section of this bill, he said, was, upon any definition that might be given of the different terms, an insolvent law. If it passed, that is, if Congress had the constitutional power to pass it, the states had no right to pass any law upon the subject of insolvency; not even to authorize the discharge of debtors imprisoned, upon a process issuing out of their own courts, otherwise than as it might suit the pleasure or convenience of Congress to permit. There was, he said, no middle ground. If the partition wall between bankruptcy and insolvency was once broken down, all state legislation was subjected to the absolute and arbitrary supervision of Congress. He did not believe that such was the design of the framers of the constitution. He did not believe that such was the constitution. He, therefore, objected to the constitutional power of Congress to pass the section referred to. He had before said, that he rose to explain, not to discuss, and he would not depart from the course he had marked out for himself. He would, therefore, only add, that, in his judgment, the provision contained in the 93d section, was not within the reasons which induced the framers of the constitution to vest this power of establishing uniform laws on the subject of bankruptcies, in Congress. That it was a power which never ought to be, or to have been, vested in Congress. That it could only be well and successfully executed by the states, where those who made the constitution had left it. That its exercise would operate most injuriously upon the system which governed the Union and the states separately. Those mischiefs would, among other things, consist in an injurious extension of the patronage of the federal government, and an insupportable enlargement of the range of its judicial power. It was not his purpose to specify. He would only say, that, if this section passed, it would be perfectly idle to think of the sufficiency of one or two, or ten or twenty

commissioners, to execute the law in many, if not most, of the states. But a still more exceptionable consequence would be, the extension of the jurisdiction of the federal courts, and the indispensable necessity of an immediate and great increase of their number. The obvious character of this consequence superseded the necessity of detail. The portion of litigation in the different states, arising out of their insolvent laws, was familiar to all, and that would, of necessity, be either immediately or ultimately drawn into the federal courts. He was certain that, if the bill passed as it stood, the measure would not stand as long as its predecessor. It was, he thought, improbable, that the states could stand quietly by and see themselves thus shorn of so great and salutary a portion of their powers. The decision of the supreme Court of the United States would, doubtless, be referred to; of that, he would, for the present, only say, that that high tribunal had not as yet covered the whole ground. He was aware of what, at the moment he was speaking, was going on below. But he would not, for an instant, anticipate farther limitations upon the rights of the states upon this subject. As yet, they had not been restricted by the supreme Court from passing prospective insolvent laws. Such was the ninety-third section. Such the states, and the states only, had a right to pass. If Congress acted upon the subject, their act, if acquiesced in, would include a surrender of all state power upon the subject. If it was put to him to decide between being a party in such surrender, or the loss of the bankrupt bill, he could not, as he viewed the subject, without being false to his trust, hesitate in preferring the latter."

In regard to the disposal of the public lands, a topic of great interest and great difficulty, the following remarks of Mr. Van Buren were made, on a motion to ask for information, in the Senate, May 18th 1826.

"Mr. Van Buren said, the subject of the public lands was becoming daily more and more interesting, and would occupy much time in legislation. It extended the patronage of the government over the states in which they were situated, to a great extent; it subjected them to an un-

wise and unprofitable dependence on the federal government. * * * No man could render the country a greater service, than he who should devise some plan by which the United States might be relieved from the ownership of this property, by some equitable mode. He would vote for a proposition to vest the lands in the states in which they stood, on some just and equitable terms, as related to the other states in the confederacy. He hoped, that after having full information on the subject, they would be able to effect that great object. He believed that if those lands were disposed of at once to the several states, it would be satisfactory to all."

In the winter of 1827, arose the great discussion in the Senate, with reference to the intercourse with the British West India Colonies. At a subsequent period, the instructions furnished by Mr. Van Buren, as Secretary of state, to our minister in England, with reference to the adjustment of this question, were made the ground of his rejection by the Senate, when himself nominated as minister to the same foreign court. No act of the American Senate ever aroused the feelings of the American people to a greater extent ; no event of Mr. Van Buren's political life ever had a more immediate influence upon his success. It will not, therefore, be improper to present his views of this question, at this early period, when his own subsequent connection with the consequences could not have been foreseen. The subjoined extracts from his speech, delivered in the Senate on the 24th of February 1827, present a clear view of the facts in the case, and are replete with the most judicious, statesmanlike and patriotic sentiments. They evince how fully Mr. Van Buren was, then, master of the whole subject, and how

little he was disposed to sacrifice national interests, or permit foreign governments to take advantage of domestic differences of opinion.

"Mr. Van Buren said, it was, until yesterday, my intention, Mr. President, to abstain from all participation in the discussion of the bill now under consideration. The able examination which it has already received, and the advanced period of the session at which it has been brought forward, alike dictate the propriety of this course. But as neither the bill reported by the committee, nor the amendment proposed as a substitute, by the Senator from Maryland, [Mr. Smith] appears to my judgment entirely satisfactory, I cannot do justice to the vote which I intend to give, without a brief examination of this important subject. The commercial gentlemen who have favored the Senate with their views, have sufficiently examined the details, and explained the value of the trade with the British Colonial possessions. To their remarks on this point, nothing need be said. It is conceded on all sides, that the trade is of great value to our country, and demands every effort for its restoration and protection. Much time has been occupied in criminating and vindicating the conduct of the different branches of the government, in reference to this subject. Of this, it is not my intention to complain. In a government like ours, where the highest office is but a trust, and every public functionary is held responsible for the manner in which this trust has been fulfilled, the closest scrutiny of public measures is at all times necessary. But, although not disposed to censure, I will not imitate the example of some of those who have preceded me in the debate: and it will be my effort to avoid all reference to the conduct of individuals, except so far as may be necessary to explain the course of events, and to exculpate this body from unmerited imputations.

"The subject of the colonial trade, involving in itself many opposing interests, has been rendered still more complicated by the various legislative measures, orders, and proclamations, which have, from time to time, been adopted by the respective governments. To review these acts, and trace, from the extensive diplomatic correspondence between the two governments, the rise, history, and present state, of the existing differences, is no easy task. This, however, I will attempt to do, in the plainest man-

ner, and fewest words. I avail myself of the present moment to do so, for the purpose of affording to the worthy chairman of the committee on commerce, an opportunity to correct, in his closing remarks, any errors into which I may have fallen. For, while it is my object to present an impartial view of the subject, uninfluenced by any other motive than a regard for the interest and honor of our country, it would be the source of unmingled regret, if, mistaking error for truth, it shall be my misfortune to do injustice to others. To foster the infant navigation of the United States, and countervail the regulations of other commercial nations, laws were passed, at an early period of the government, imposing a duty of ninety-four cents per ton on foreign ships and vessels, and ten per centum on the amount of duty on the merchandise, therein imported, which should arrive in the United States; from which duties the American vessels and cargoes were exempted.* By the act of Congress of March 1815, a new and more liberal policy was commenced. The discriminating duties on foreign ships and vessels were conditionally repealed: and a tender was made to all other nations to extend to their vessels the privileges enjoyed by their own, on the condition that the same concessions should be made in favor of the vessels of the United States. The principle of this act was adopted in the commercial convention with Great Britain, of July 3 1815, but was limited, in its application, to the trade between the United States and the British possessions in Europe. It was at that time proposed by the government of the United States to extend the principle to the trade between the United States and the British American colonies. But Great Britain, claiming the right of pursuing a policy, in relation to their colonies, different from that by which the trade between her European possessions and other nations was governed, declined the overture. With regard to this trade, therefore, each party preserved their original rights. By the operation of this convention, and the ordinary navigation laws of Great Britain, the United States were in effect excluded from all participation in the British West India trade; and British vessels became the sole carriers of the productions of the American soil, to colonies, to whose prosperity, if not existence, these productions were

* Hence called discriminating duties.

indispensable. A condition so unequal, demanded the interposition of our government. Successive, but fruitless appeals were made to the interests of Great Britain: and the most favorable terms which could be obtained, so late as March 1817, was a proposition to extend to the United States the Free Port Act, allowing the importation of certain enumerated articles, into certain enumerated ports, in vessels of one deck; to authorise a restricted admission of our vessels into Bermudas and Turks Island; and to connect with these an article regulating the intercourse between the United States and the British territories adjoining them. After mature deliberation, this proposition was declined by our government. Negotiation having failed in procuring any favorable relaxation of the colonial system of Great Britain, Congress deemed it necessary to enforce, by countervailing legislative enactments, a just participation in the trade; and in 1818 an act was passed, by which the ports of the United States were closed against British vessels coming from colonial ports, which, by the ordinary laws of navigation, were closed against vessels of the United States. A non-intercourse in British vessels was thus established with the closed ports. Soon after the passing of this act, an opportunity again occurred of presenting this subject to the attention of the British government, in the negotiation for the renewal of the commercial convention of 1815. But, although propositions were exchanged by the respective governments, the terms still offered by Great Britain were such as our government did not deem it proper to accept; and in May 1820, an act was passed, supplementary to the Navigation Act of 1818, closing the ports of the United States against British vessels coming from any British colonial ports in the West Indies, Lower Canada, &c. and interdicting the landing of the productions of the United States, exported in British vessels, in the prohibited places, as well as the introduction into the United States of the goods, wares, and merchandise, of these colonies, except wholly of the growth or produce of the colony whence laden and whence directly imported. To prevent or mitigate the effect of these measures upon the trade and prosperity of the colonies, partial relaxations of her colonial system were at times permitted by Great Britain. But these temporary relaxations were not of a character to justify the abandonment of the ground which we had taken. To evince, however, our willingness to terminate a system of exclusion and prohibition, which

could only be injurious to both parties, Congress, by act of 6th May 1822, authorized the President, on being satisfied that the British West India Islands or colonies were open to the vessels of the United States, to open the ports of the United States to the vessels of Great Britain, under such 'reciprocal rules and restrictions' as the President might make and publish. The act of Parliament, of 24th June 1822, followed. By this act Great Britain opened the colonial ports, therein designated, to the admission of certain enumerated articles, direct from the producing country; and authorised the exportation of any article of the growth, produce, or manufacture, of the British dominions, or any article legally imported into the said ports, (arms and naval stores excepted,) on the condition that they should, in foreign ships, be exportable only direct to the country to which the vessel belonged. The 15th section empowers the King to prohibit trade and intercourse with any country, or island, in America, or the West Indies, if it should appear that the privileges granted by the act to foreign ships and vessels, were not allowed to British vessels. The anticipated contingency having arrived, which required the exercise of the power with which the President had been entrusted by the act of Congress, of May 1822, he issued his proclamation in August, 1822, declaring the ports of the United States to be open to British vessels, under such rules and restrictions as were deemed reciprocal. The discriminating duties between American and foreign vessels, were not rescinded by the proclamation. Of this, the British government complained, alleging that similar privileges were not conferred, by the proclamation, on British vessels, as had been conferred on American vessels, by the act of Parliament. On the other hand, it was contended by our government, that the privileges granted to British vessels were more favorable than those conferred on American vessels engaged in the same trade, on the assumption that our discriminating duties were to be continued. This question gave rise to an extended correspondence between the appropriate public functionaries of the two governments. It is not necessary, nor is it my intention, to examine minutely the grounds of these opposite opinions. * * *

"Such, in substance, were the points of collision between the two governments, upon the British act of June 1822. Subsequent changes have rendered a critical examination of the justice of the respective pretensions unnecessary.

The correspondence which ensued produced no decisive result. Although Great Britain still alleged the inequality of the privileges enjoyed by British vessels in American ports, the power to prohibit intercourse with the West India islands, in pursuance of the act of Parliament of June 1822, remained, for some time, unexercised. On the 1st of March 1823, Congress passed an act suspending the non-intercourse acts of 1818 and 1820, and opening our ports to British vessels engaged in the colonial trade, on certain specified conditions. One of the conditions was, that, if the President should receive satisfactory evidence that no higher or other duties were imposed, in the British colonial ports, upon American vessels, or cargoes, than upon British vessels, and upon their cargoes, imported from elsewhere into the same, to discontinue our discriminating or alien duties in favor of British vessels. This act was in accordance with the ground maintained by our government in their correspondence with Great Britain since the year 1817. It adopts the principle that the reciprocity of burdens and exemptions should extend to the cargo as well as to the vessel; and claims for our produce, imported into the British colonies, the privileges allowed to the produce of the mother country, or its colonies. This claim was resisted by Great Britain, as wholly inadmissible; and, in the same year, an order in Council was enforced, imposing countervailing duties on American vessels, arriving at her colonial possessions, of precisely equal amount to those imposed in our ports, upon British vessels arriving from the colonies. In 1824, there at length appeared some ground to anticipate the speedy termination of these conflicting views. Negotiations were commenced, propositions of the respective governments were interchanged, and the claims of both were supported with ability and zeal. But, although the differences were reduced to a single point, the negotiation terminated without effecting the desired adjustment. Being limited by his instructions, the American Minister insisted that the productions of the United States imported into the colonies, should not be subjected to a higher duty or impost than those arriving from *any other place*. The British government were willing to place them on the footing of the most favored nation; but inflexibly maintained their uniformly asserted right to encourage, by discriminating imposts, the growth and importation of their own productions.

“It is not necessary to recapitulate the reasons which

were urged by the respective parties, and with which every Senator must be familiar. But it is important to keep in mind, that the failure of the negotiation arose from our government having at that time, adhered to terms, which it has since abandoned. In the instructions from the Department of State to our Minister in London, (Mr. Gallatin,) dated June 19 1826, we find the following: 'You will observe, that the instructions now given respecting the colonial trade, amount to an authority, on the part of this government, to you, to agree in substance to the modification of Mr. Rush's proposal, which was required [in 1824] by the British Plenipotentiaries.' In July 1824, the British tender was made: nearly two years elapse; and, in 1826, this tender is accepted! Nearly two years consumed in the consideration of that which ought not to have required as many months. Well might it have been supposed that this proffer was rejected: for surely the annals of no country can exhibit so lingering an acceptance. But this acceptance, coming thus slow, unfortunately came too late. Before its arrival, the policy or the inclination of the British government had changed; and, instead of a cordial reception, our Minister was informed that negotiation was now unnecessary; and that the only terms of intercourse were prescribed by the acts of Parliament. In this, as well as in concerns of less magnitude, it may be seen that whatever is determined to be done, should be done at once; that deliberation, if it supply the place of action, is not less fatal than precipitation; and that, to hesitate in the acceptance of a proffered and desired benefit, and permit occasions to pass away, which can never be recalled, partake of the character of weakness, and detract from the reputation of any man, whether in the cabinet or in the field. Sir, it is well known to our Government, that, in 1825, acts were passed by the British Government, opening her ports to foreign vessels, coming from any foreign country, upon equal terms with her own; on the condition that the country engaging in such trade, and having colonies, should allow British vessels to trade with its colonies, on similar terms; and that a country, having no colonial possessions, should, to entitle itself to the privileges of these acts, place the trade between the British colonies and such country, on the terms of the most favored nation. The King was at the same time authorised to close the British colonial ports against the vessels of any power which should refuse or omit to avail itself of the proffered conditions. Not

only were these acts in the possession of the Executive; they were presented to your committee, and laid upon our tables. And yet, what was the course pursued by that Department of our Government, to which these concerns were specially confided? Were legislative measures recommended either to suspend or remove the existing restrictions, or to meet, in any way, the legislative measures of Great Britain? Not at all. We find the administration, on the contrary, still hesitating, still delaying, and still placing their dependence on renewed negotiation. In their view, legislation was improper; and one entire session of Congress thus passed away, and nothing was either done or attempted under their recommendation. An effort, it is true, was made by a member of this body. But the bill introduced by the Senator from Maryland, and which, had it passed, would at least have manifested a conciliatory spirit, and, in all probability, have led to an honorable adjustment of the pending controversy, was permitted to fail. The cause of its failure, it will hereafter be my object to disclose. Interesting as that may be, the consequences attending it are of more importance to our country. Apprised of our refusal to modify the existing restrictions upon the trade, or reciprocate the provisions of the acts of Parliament, the British Government, by an Order in Council of July 1826, closed the ports of the West Indies against the vessels of the United States; and since last December, the subjects of Great Britain have enjoyed the exclusive monopoly of this advantageous intercourse. To this has been added the intimation, that no measure will be taken to remove the interdict, while the act of Congress of 1823 shall remain in force. * * *

"Such, sir, is the history and present condition of the existing controversy with Great Britain, which requires, it is said, the enactment of the bill under consideration. The following are some of the deductions which seem to follow, irresistibly, from the view which has been taken, viz: 1st. That, had it not been for the principle assumed in the act of Congress of 1823, which claims for our trade the same immunities as are allowed to the trade between the colonies and the mother country, an honorable and equitable adjustment might have been effected under the British act of June 1822, opening the colonial ports to American vessels. 2dly. That the principle of the act of Congress, of 1823, to which I have already referred, and which, until recently, was alleged to be an insuperable



obstacle to the acceptance of the British proposal, has *now been formally abandoned by our Government*. 3dly. That, in 1824, the same terms were offered by the British Government, which, in 1826, Mr. Gallatin was instructed to accept. 4thly. That the British acts of June and July 1825, opened the colonial ports to our trade, on the terms proposed by the committee in their reported bill, as the condition for the revival of the trade, and of the equity of which there can, therefore, be no difference of opinion : and, 5thly, that, if these terms had been reciprocated by the passage of the bill, which was presented to the Senate by the Senator from Maryland, at the last session, we should be now participating in the advantages of this intercourse. * * *

"Mr. President : In the review which I have taken of the origin and history of our commercial difference with Great Britain, I have endeavored to direct your attention to the acts as well as to the omissions of our government. It remains to consider what is proper to be done, to remedy the one and supply the other.

"In the prosecution of this inquiry, it is not necessary, I am sure, to urge upon this Senate, the adoption of those measures only which are demanded by the honor and interests of our country, and the exclusion from our councils of every consideration less worthy of our regard. The humiliating spectacle of a foreign and adverse government, speculating upon the advantages which it may derive from our dissensions, will, I fervently trust, never again be the reproach of the American people. In a government like ours, founded upon freedom in thought and action, imposing no unnecessary restraints, and calling into exercise the highest energies of the mind, occasional differences of opinion are not only to be expected, but to be desired. They rouse the sluggish to exertion, give increased energy to the most active intellect, excite a salutary vigilance over our public functionaries, and prevent that apathy which has proved the ruin of republics. Like the electric spark, they dispel from the political atmosphere the latent causes of disease and death. But these conflicting opinions should be confined to subjects which concern ourselves. In the collisions which may arise between the United States and a foreign power, it is our duty to present an unbroken front ; domestic differences, if they tend to give encouragement to unjust pretensions, should be extinguished or deferred ; and the cause of our government must be considered as the cause of our country.

"The bill reported by the committee directs, that, after the 30th of September next, our ports shall be closed against any vessel coming by sea from the enumerated British ports: but provides that the act shall not take effect, if, before that period, the President shall receive satisfactory information that the enumerated British ports are open to the admission of our vessels upon certain specified terms, being, in substance, the same proposed by the British acts of June and July 1825. The substitute, proposed as an amendment by the Senator from Maryland, removes the discriminating duties, after the 31st of December, and suspends the acts of 1823, 1820, and, 1818, until the same period, except so much thereof as imposes discriminating duties on the tonnage of foreign vessels and their cargoes. The bill, as reported, prescribes the consequences which would attend the failure on the part of the British Government to comply, in the time limited, with the terms proposed. The amendment leaves the consequences to the operation of the acts referred to, by which our ports will be closed whenever the President shall, by proclamation, announce, after the 31st of December next, that the British ports are closed against vessels of the United States, in the presumption that, at that time, Congress, being in session, will adopt such further measures as the existing state of things may require. The merits of the bill reported are supposed, by its advocates, to consist in the greater energy of its provisions; those of the amendment, in being equally efficient, and more conciliatory in its form. Without material alteration, I shall not be satisfied with either: but, as a basis to act on, I prefer the amendment. The bill assumes to be what it is not. If the honor and interest of the country required the adoption of a measure of retaliation, corresponding with that to which it is to be opposed, the bill should direct that the ports of the United States should be closed against British vessels engaged in this trade. But if, from what has been done or omitted, this step is not thought to be expedient, (a question which I am not now disposed to press,) the measure which we may adopt should be as conciliatory as is consistent with self-respect. The amendment proposes to do now, what it was expedient to have done at the last session. It proposes to remove the ground of collision by abolishing the alien and discriminating duties. But, in consequence of the change produced by the British interdict, the operation of the amendment is deferred to a day sufficiently distant to enable the British

Government to revoke its Order in Council, and meet the terms of the amendment by reciprocal provisions. With two modifications, the amendment shall receive my support. I object to the time when it is to go into operation, and I prefer that it should carry on its face the terms on which alone the intercourse can be revived. Should the Senate concur in the amendment, by which the act will take effect, before the next session of Congress, I shall propose a section to that effect. The amendment, as now offered, will present no inducement to Great Britain for the removal of her interdict, until a distant day. This objection, however, may, in part, be obviated by a provision, authorizing the President, by proclamation, to remove the discriminating duties at any intermediate time. But my objection to the day arises from a higher consideration. Our acts should be firm; and, however mild and conciliatory, should exhibit neither fickleness nor irresolution. If, retracing our steps, we abandon the principle which alone prevented an amicable adjustment in 1824, the act announcing the fact should also proclaim our unalterable determination, should our views not be met in a conciliatory spirit, to accept of nothing less than that which justice demands. We have to contend with an adversary deeply versed in the arts of diplomacy, and every way competent to discern the intentions of those whose interests may come in competition with their own. By deferring the operation of the act until Congress again meet, you will awaken some doubt of your ultimate intention, and perhaps a hope may arise that you are not now prepared to renounce a trade, in which you are not permitted to participate on equitable terms. With such an alternative before us, there is no one in this Senate—I trust there is no one in this nation—who would hesitate one moment in his choice. In giving utterance to this universal sentiment, let your act be explicit, and your determination final. Leave nothing to be accomplished by a future Congress, and, in the act which you may pass, present to the British Government your ultimatum, in the terms which she has herself proposed. In this, there will neither be menace nor an offensive display. It is precisely the course which she pursued, when the situation of parties was reversed. If it be the intention of Great Britain to place this trade upon the footing of just reciprocity, she will not be moved from her purpose by mere questions of form. But if, influenced by any change in

her views or policy, she is resolved to reject our liberal propositions, no phraseology, however courteous, will produce a different determination. Be this determination what it may, we shall have performed our duty, and may rely upon the support of the American people."

CHAPTER XV.

*Opposition of Mr. Van Buren to the Panama Mission.
Extract from one of his speeches on that question.*

IN March 1826, the great question of sending ministers to the Congress at Panama came up for discussion, and drew forth the ablest efforts of the ablest members of the Senate. The administration of Mr. John Quincy Adams had hitherto experienced no regular opposition from the North ; the leading republicans in that section, were willing to judge it by its merits, and the first alarming indication of a disposition to depart from the cardinal principles of the constitution, was, in the nomination of ministers to represent the United States in the Congress of South American plenipotentiaries at Panama.

In December, 1824, Bolivar, as commander in chief of the republic of Peru, invited the governments of Colombia, Mexico, Chili and Buenos Ayres, to unite with his own government, in a Congress of plenipotentiaries at Panama ; and the proposal was acceded to by these states with the ex-

ception of Buenos Ayres. The time of meeting, proposed, was the fall of 1825, and the ministers of Colombia and Mexico, residing at Washington, in the spring preceding, intimated a wish that the United States should send delegates to the same Congress. In complinace with this invitation, Mr. Adams on the 25th of December, nominated Messrs. Richard C. Anderson, John Sargeant and Wm. B. Rochester, as delegates to the Congress at Panama. When the nomination was presented to the Senate, that body took into consideration, not only the suitableness of the nomination, but the expediency of the embassy, and on the 16th of January, following, the committee of foreign relations reported that it was inexpedient to send ministers to Panama. The debate was carried on, with closed doors, until February 15th 1826, when, on motion of Mr. Van Buren, it was resolved that in the discussion of the question, the Senate ought to act with open doors, unless the publication of documents referred to in the debate, would prejudice the pending negotiations ; and the President was requested to inform the Senate whether such was the fact, and if so, what documents ought not to be published. The substance of the President's answer was, that the communications by him to the Senate, were made in confidence, and the motion of Mr. Van Buren failed.

On the 14th of March, Mr. Van Buren submitted several other resolutions, the substance of which was, that the constitution of the United States did not authorize the nomination, by the President, of ministers to an assembly like that

proposed at Panama ; and that, waiving the constitutional objection, the proposed embassy was inexpedient. These resolutions were rejected by the Senate and the nominations were severally confirmed. It is well known that owing to the death of Mr. Anderson, and other causes, the deputed delegates never actually met in the Panama Congress.

Mr. Van Buren met this measure of the administration, at every step, with his most vigorous opposition. During its discussion, he entered minutely into the history of the South American states, their actual condition and future prospects ; he discussed the probable results of the proposed Congress ; he reviewed the negotiations connected with it and the communications of the Executive regarding it ; he examined, much at length, the policy of our own government with respect to alliances with foreign nations, and discussed, with singular felicity of argument and illustration, the principles which should control our intercourse with foreign powers ; he showed in what instances, hitherto, those principles had been violated, and the fatal consequences which flowed from every violation ; he embraced, in short, a diplomatic history of the United States, and threw the full light of history, experience and argument upon the question then pending. From one of his speeches on this important subject, the following extracts are taken. They are fraught with rich political information, and characterized by those profound political views which appear in all

his discussions of important matters. It would be difficult to find, within the same narrow compass, more political truth, richer historical facts, or more just views of the true nature and policy of our government.

"I will now, Mr. President, call the attention of the Senate to another view of this subject, to a question of the gravest character, and most deeply affecting the dearest interest of the country—a question growing out of considerations which have heretofore occupied the best minds, and interested the purest hearts our country has produced: 'WOULD IT BE WISE IN US TO CHANGE OUR ESTABLISHED POLICY UPON THE SUBJECT OF POLITICAL CONNECTIONS WITH FOREIGN STATES?' The President has said, that, 'to form alliances,' is not among the motives of our attendance at the Congress. But what description of alliance does he mean? They are of various kinds, and of different extent. We are, at that Congress, to stipulate in some form, (and I care not in what,) that we will resist any attempt at colonization, by the Powers of Europe, in this hemisphere, (or within our own borders if you please,) and that, in the event of any interference on their part, in the struggle between Spain and the Spanish American states, we will make common cause with the latter in resisting it. To this end we have been invited, and upon these points we have promised that our ministers shall have *full powers*. We must do this, or the whole affair becomes empty pageantry; which, though it may be the offspring of personal ambition, will assuredly terminate in national disgrace. Call it an 'alliance,' or whatever name you please, it is a *political connection*, at war with the established policy of our government. And is this a light matter? Sir, when it is proposed to subvert a fundamental principle in our foreign policy, in the support of which we stand ALONE among all the nations of the earth—which, commencing with our government, is endeared to the people, and upon whose deep foundations has been erected the magnificent superstructure of unequalled national prosperity—it surely becomes those entrusted with the management of affairs, to pause, and weigh, with scrupulous exactness, the importance of the step.

"In the discussion of this subject, I shall first consider the general principle; then the grounds of the distinction attempted to be made between its application to the Spanish American states, and to those of Europe. At this moment the United States, (thanks to the wisdom of their early counsels!) are unfettered. No government has a right to demand our aid or interference in any of the changes in the condition of the world—come what may, we are now unembarrassed in our choice. Until lately, I had flattered myself that the acknowledged obligation on the part of our government to maintain that condition, was as firmly fixed as its republican character. I had the best reason to think so, because I knew it to be a principle in our public policy, which had for its support all that is instructive in experience, all that is venerable in authority. That authority is no less than the parting admonitions of the Father of his Country. The earnest, eloquent, and impressive appeals upon this subject, contained in his Farewell Address, are yet, and will, I trust, long remain, fresh in our recollections; nor were the sentiments he thus avowed mere speculative opinions, founded upon an abstract consideration of the subject. No! they were sentiments matured by reflection, and confirmed by actual experience, of the practical results which had arisen from a connection of the character he so ardently and so justly deprecated. A reference to the history of that period will illustrate the fact, and is replete with instruction. During the war of our Revolution, we entered into an alliance with France, 'the essential and direct end of which was, to maintain effectually the liberty, sovereignty, and independence, of the United States, absolute and unlimited, as well in matters of government as of commerce.' By the treaty of alliance, we, in consideration of the guarantee by France of the freedom and independence of the United States, undertook, on our part, to guarantee to France the possessions she then had in America. The revolution in France involved that country in war with the principal powers of Europe. Her American possessions were brought in danger; and, among other things, claimed under the treaty of alliance, she called upon us for the fulfilment of our guarantee. At no period of our history has our government been placed in a more humiliating and embarrassing situation. The signal benefits we had received from France were known to the world, and fully appreciated by our citizens. Upon the terms of the compact there could be no dispute.

The consideration upon which we had entered into it, was of the most sacred character. But the danger of compliance was imminent, and prevailed over every other consideration. Reposing itself upon the great principle of *self-preservation*—a principle, extending itself as well to nations as individuals—our government refused to comply with its engagement; and General Washington issued his celebrated proclamation of neutrality. The grounds relied upon to justify the step were, that our alliance was a *defensive* one only; that the war, on the part of France, was an *offensive* war, in which we were not obliged, by the law of nations, to take part; that the contest was, moreover, so unequal, and our means so inadequate, that, upon the principle of self-preservation, we were justified in refusing to take part with our ally. It was not expected that France would acquiesce in the validity of the grounds thus taken. She did not. The loud, solemn protests of her Ministers are remembered; as also, the measures resorted to for the purpose of obtaining, indirectly, some of the advantages claimed from the alliance: such as fitting out vessels of war in our ports, and enlisting our citizens in her service. England remonstrated, made strong imputations of partiality against our government—imputations founded on suspicions growing out of the known connexion between us and France—and resorted to similar means to annoy her enemies and commit our neutrality. General Washington found it impossible to satisfy either party of the strict impartiality that governed our conduct. The result was war, in fact, with France, and many of the evils of war with England. She enforced against our commerce new and unjustifiable principles of public law on the subject of blockades and articles contraband of war. The sagacious mind of Washington, and the great men who enjoyed his confidence, traced the multiplied embarrassments of the country at that trying period, *to the treaty of alliance with France.* * * *

“At the extra session of Congress, in May 1797, his successor, in his message to that body, thus expressed himself:

Extract from the Message of President Adams to Congress in 1798.

“Although it is very true, that we ought not to involve ourselves in the political system of Europe, but to keep ourselves distinct and separate from it, if we can; yet, to

effect this separation, *early, punctual, and continual information of the current chain of events, and of the political projects in contemplation*, is no less necessary than if we were directly concerned in them. It is necessary, in order to the discovery of the efforts made to draw us into the vortex, in season to make preparations against them. However we may consider ourselves, the maritime and commercial powers of the world will consider the United States of America, *as forming a weight in that balance of power in Europe, which never can be forgotten or neglected*. It would not only be against our interest, but it would be doing wrong to one half of Europe at least, if we should voluntarily throw ourselves into either scale. *It is a natural policy*, for a nation that studies to be neutral, *to consult with other nations engaged in the same studies and pursuits*. At the same time that *measures ought to be pursued with this view*, our treaties with Prussia and Sweden, one of which is expired, and the other near expiring, might be renewed.'

"This communication was followed by the nomination of a minister, (the present President of the United States,) to Berlin, to carry into effect the avowed object of the mission. This early departure from the principles, and disregard of the precepts of Washington, was met by the united and most vigorous opposition of the republicans of that day. An attempt was first made in the Senate to defeat the mission, on the ground of its *inexpediency*. That failing, the appropriation was resisted in the House of Representatives, in a debate that lasted for several weeks. It was the direct cause of the first great collision, between the republicans of that day, and the then President. A singular and extraordinary similarity will be found between the question then agitated, and the one now under discussion. It was then contended that the United States ought to *consult with other nations engaged in the same studies and pursuits*, and that *measures ought to be pursued with that view*. Those measures were understood to be the formation of political connections, (beyond the ordinary commercial treaties,) in order to secure co-operation in support of their common interest; and further, that it belonged to the President to decide on the question of the propriety of a mission for that purpose, and that the Senate were only to pass on the fitness of the persons nominated. What is now contended for, and what the policy we resist? That, having a common in-

terest with the Spanish American states, we ought to meet with them in Congress—in the language of the Secretary of State, speaking in the name of the President, for the purpose of ‘settling several important questions of public law, and arranging other matters of deep interest to the American Continent.’ What those matters are, and how they are to be arranged, has, I hope, been fully developed; and further, that *‘this measure is deemed to be within the constitutional competency of the Executive;’* that we are only consulted to obtain our opinion on its ‘expediency,’ and because it is necessary to come to us for ‘an appropriation, without which, the measure cannot be carried into effect.’ Yes, sir, the first blow that was struck in that great contest, which subsequently convulsed the country, and the first voice that was raised to arrest the current of events then setting in, were on points, to all substantial purposes, identical with the present. Is it not a startling, if not an ominous circumstance, that, so soon, under the present administration, we should have presented to us, in such bold relief, doctrines and principles, which, in the first year of that to which I have referred, laid the foundation of the most bitter and unrelenting feuds? Does the analogy stop here? The men who then opposed the mission to Berlin were denounced as oppositionists; as a faction who sought the gratification of their personal views, at the expense of the public good; they were lampooned, and villified by all the presses supporting and supported by the government, and a host of malicious parasites generalised by its patronage. Their weight of character, the purity of their lives, the consistency of their principles, and their force of reasoning, were alike unavailing. It was sufficient that they dared to think for themselves; to prefer what they regarded as the interests of their constituents to the wishes of the Executive; to refuse a ready acquiescence in what was given them to do; and every puny whipster in the land felt himself at liberty, without in the least understanding the question involved, to misrepresent their acts, and impugn their motives. Respect for this body, and a just contempt for the venal efforts of venal men, restrains me from pushing the parallel farther. Covering themselves with the mantle of Washington, the republicans of ’98 labored manfully to strangle, at its birth, this political hydra, this first attempt, since the establishment of the government, to subject our political affairs to the terms and conditions of a political connection, with any foreign nation. * *

"Their labors shared the fate which, in all probability, awaits the exertions of those who, at this day, maintain their doctrines. They were outmustered at roll-call. *They* failed, mark it, by a majority of *four*. The force of Executive patronage, aided by a venal press, was too strong for them. But of what avail was success to their adversaries? A few more such victories, and their ruin was complete. The one party succeeded in the House, but the other out of it. The seed then sown took root. The doctrines of the dominant party, inherently unsound, stood rebuked before the power and eloquence of their adversaries, and speedily received the condemnation of the people; whilst the opposing principle, the principle for which we now contend, was rescued from the attack that was made upon it, and once more registered among the special canons of the American policy. Its advocates lived to see it placed upon a footing which they had every reason to believe would last, at least, the short period of their existence. But how uncertain are all things! 'Let no man boast of to-morrow, for he knoweth not what a day may bring forth.' The events of the last month form a striking commentary upon the text. It is now twenty-eight years since this transaction took place, and there are yet two persons on this floor who acted and voted together upon that great question. It has been to me a matter of much interest to witness their course at this day. Of the one I cannot speak, but hope for the best. The sentiments of the other (Mr. Macon,) are on record. He is yet the same unwavering republican that he was in '98. The principle now involved is the same as then. When that is ascertained, he exhibits neither trembling nor hesitation. With a mind vigorous, though mellowed by experience, firmly relying on the republic, he follows the maxims of his early years. The circumstances under which I speak restrains me. But this much I will say: The man who has occupied a seat here and in the other House, during every administration of the government, from the second year of its institution to the present day, and who has been wise enough to estimate, at their value, the miserable illusions of Executive favor, and who prefers the approbation of his own conscience to the meretricious smile of power; who can look back upon a life thus spent, with an entire consciousness that he never, in a single instance, postponed the interests of his constituents to promote his own: deserves to be regarded as a monument of fidelity and consistency, alike honorable to

his state, and beneficial to his country. But to return to the circumstances of that eventful period: The ball of political revolution, which was set in motion by the debate on the Berlin mission, was pressed rapidly forward by successive measures of equally exceptionable character, until finally it effected the total overthrow of the party then in power, and the elevation of Mr. Jefferson to the Presidential chair. The creed of this great Father of our political church, was, 'Peace, commerce, and honest friendship, with all nations; entangling alliances with none:'. In strict conformity to the principle of Washington, advising an 'extension of our commercial relations, but as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith; *but here let us stop!*' During the whole of Mr. Jefferson's administration, the whole of Mr. Madison's, and the first four years of Mr. Monroe's, (with a single attempted exception,) the principles avowed by the two great founders of the republic were respected, and the result was good. The exception to which I allude was this: Influenced by that deep solicitude for the welfare of our Western brethren, which always has, and I trust always will, influence the councils of the country, the government was, in 1803, induced to offer, through Mr. Pinckney, our Minister at Madrid, 'to guaranty to the King of Spain, and his successors, his dominions beyond the Mississippi,' if he would sell to the United States his possession between that and the river Mobile. The desire to obtain the cession, it is well known, grew out of the dispute relative to the navigation of the Mississippi, and the questions connected therewith. In the discussion with our government, in 1818, relative to the cession of the Floridas, Spain brought forward that offer in 1803, claiming that it proposed a guarantee of her territory as far as the Isthmus of *Panama*, and desiring to make it a condition of the cession. The change of circumstances since produced in Spanish America, had taught her the immense value of the guarantee. Our Minister at Madrid, (Mr. Ervine,) denied that such an offer had ever been made. Mr. Pinckney's letter was produced. A controversy succeeded as to its construction, which resulted in an explicit declaration that, under no circumstances, would the United States make the guarantee in question. The altered state of things had shown that a stipulation, from which no harm was apprehended in 1800, could not, in 1818, be listened to for a moment. By sheer good for-

tune we escaped from this entangling connection. What, sir, would have been the probable consequences, if Spain had accepted the guarantee which was claimed to have been offered? Instead of being the great patron of the Spanish American cause, we might, at this moment, have been engaged in a war, either with Mexico, for attempting to fulfil, or with Spain, for violating our guarantee; and yet, with all the lights of experience before our eyes, it is desired to hurry us into similar compacts, the consequences of which we cannot foresee, but which we well know may, by the course of events, compel us either to violate our plighted faith, or act against what may hereafter appear to be our best interests.

"Our next attempt to form a foreign connection, other than commercial, was the negotiation of treaties of concert and co-operation with England and the Republic of Colombia, on the subject of the Slave Trade. A brief sketch of the course and consequences of that ill-judged measure, will not be without instruction upon the subject before us. From 1794 to 1808, when the constitutional inhibition upon Congress in relation to the slave trade expired, a system of wise, and as far as the power of the government extended, efficient legislation, was adopted for the suppression of that detestable traffic. From the latter period to the year 1819, our legislation assumed a wider range, and still more efficient character, until, finally, the offence was denounced as piracy, the punishment due to that crime prescribed, and the Executive clothed with power and means fully adequate to the execution of the law and the suppression of the trade; so far at least as our citizens were concerned. The measures then adopted, effected the purpose for which they were designed. They did more. They extorted from England, who, next to the United States, has recently been foremost in the adoption of means to this end, the unqualified admission, not only that the United States had been the first, but also the most successful, laborers in the cause of humanity.

"Thus matters stood at the period which I have mentioned. Our government, unfortunately not content with *well*, must seek for *better*, and the negotiations of which I speak were opened. So too with our affairs with the Spanish American states; they stand well; we have done all they expected of us, and more than they had a right to ask. What we have done, has reflected credit upon us, and has been serviceable to them. Not content with this

we are hurrying on in the usual course ; partial success is leading us to injurious excess. But to return : the President negotiated a treaty with England, yielding, under certain modifications, the right of search, and authorizing a foreign power to enforce our own laws upon our own citizens. I need not state to this body the fate of that ill advised project. The treaty was defeated by a vote of the Senate. A similar one with the republic of Colombia shared the same fate ; and, although the vote against the English treaty was small, so rapidly did the sentiment of opposition to the principle increase, that the rejection of the latter treaty, at a subsequent session, was nearly unanimous. Who is there now on this floor, that would give his vote in favor of a similar measure ? But it seems that the light of experience has been shed in vain upon this obstinate propensity to figure in the diplomacy necessarily growing out of foreign connection. The results of the particular measures now referred to, were, as we all remember, contention at home, and dissatisfaction abroad ; a correspondence, with England, of not the most friendly character, in which long explanations were made necessary, of the character of our government, to satisfy other powers that the President was not responsible for the act of the Senate. Explanations were made with great ability by the then Secretary of State, and subsequently enforced with equal ability by the present Secretary. The matter was understood here, and perhaps by the governments to whom those explanations were made ; but, to a great part of the world, it appeared that the zeal of the United States for the suppression of the slave trade, had abated. The high character we had acquired for our early and unceasing labors in that great cause, was not indeed destroyed : for that could not be easily effected ; but our motives were exposed to misconstruction, and are now misrepresented by those who do not understand the structure of our government. Such, sir, was the consequence of this third attempt to surrender the control of our conduct, in the support of our rights, or the discharge of our duties, to foreign association : such the penalty of disregarding the warning voice of Washington—‘ never abandon our own to stand on foreign ground.’ Such are among the least evils that have, sooner or later, in a greater or less degree, been the consequence of political connections between different nations, at all times, and in all places. Permit me to refer the Senate to a transaction of the same character between other states. In 1815, the

Plenipotentiaries from the five great European Powers, viz: England, France, Russia, Prussia, and Austria, convened at Vienna, declared to the world that they would unite their means for the effectual suppression of the slave trade. The settlement of those means was deferred to a future period. At the conference of the plenipotentiaries of the same powers, in 1818, at Aix la Chapelle, an attempt was made to agree upon the means necessary to effect their declared object. Then occurred, what always will occur, except in cases of great emergency—like the recent coalitions among the powers of Europe against that of Napoleon, when the very existence of several of the allied powers was involved—the difficulty of agreeing upon the terms of co-operation among nations having different interests, feelings, prejudices, and views. England proposed the extension of the right of search, as the only means adapted to the end. Negotiation was commenced and continued, until, finally, the measure proposed by England was refused, or evaded, by all the powers, and the conference dissolved, leaving the celebrated declaration made at Vienna, unexecuted, and producing naught but mutual distrust and dissatisfaction: Thus shewing how easy it is for nations to unite in the avowal of a general principle—how difficult to agree upon the *means* of enforcing it. So will it be with us and our South American friends and neighbors. There may be little difficulty in uniting in avowing as a principle, that these continents are no longer fit subjects for European colonization, or to protest against the interference of Europe in the affairs of Spanish America. But the moment we proceed to stipulate as to the *means* of enforcing it, difficulties will occur that, in all human probability, will impair the friendly relations now existing between us. They will occur first in the negotiation, and, if these are surmounted, certainly in the application of the principles established, when the time for their application unhappily occurs.

“But I cannot consent to trespass longer upon the time of the Senate in pushing the discussion of this point further, although various considerations, operating against the measure, press upon my mind. If it were proposed to form a connection with any European power, such as now designed with the Spanish American states, it is hoped and believed, that the measure would not meet with one approving voice—shall I say—on this floor? No, not in the country. But it has been supposed that the United States ought to pursue a different policy with respect to the

states in this hemisphere. It is true, Mr. Monroe, in his message, makes a distinction of this character, although he by no means carries it to the extent proposed. If he did, all that the distinction could derive from that circumstance, would be, the weight of his opinion, always considerable, but never decisive. The question still recurs, is the distinction founded in principle and policy? If it be, it must arise from one of two reasons: either the *character* of the governments of the Spanish American states, or their *local situation*; or, perhaps, from both. The United States have hailed the emancipation of those states with satisfaction; they have our best wishes for the perpetuity of their freedom. So far as we could go to aid them in the establishment of their independence, without endangering the peace, or embarrassing the relation of our country, we have gone. More than that ought not to be asked. Nor has it. Sensible of the embarrassments which their invitation might produce, they declined to proffer it until advised that we desired to receive it. Next to being right, it is important to governments, as well as individuals, to be consistent. Has the character of these governments been the principle upon which we have hitherto acted in relation to those states? It has not. Mexico and Brazil were the last to shake off their dependence on foreign authority. They were among the first whose independence we acknowledged. Mexico was, at the period of its acknowledgement, under the dominion of the Emperor Iturbide, and Brazil of its Emperor, Don Pedro. As a special compliment to the Emperor of Mexico, we sent, or rather intended to send, to his *Court*, one of the most distinguished men of the nation, (General Jackson.) At the court of the Emperor Don Pedro, we have our Minister; whilst in the republic of Peru—the power with which the first of the treaties, in virtue of which the Congress of Panama is to be held, was concluded—we have not yet been represented. Do our principles admit that we should adopt the measures proposed with such reference, and upon such grounds? What are those principles? That man is capable of self-government; that the people of every country should be left to the free selection of such form of government as they think best adapted to their situation, and to change it as their interests, in their own judgments, may seem to require. Wherein consists our objection to the Holy Alliance? Because they confederate to maintain governments similar to their own, by force of arms, instead of the force of

reason, and the will of the governed. If we, too, confederate to sustain, by the same means, governments similar to our own, wherein consists the difference, except the superiority of our cause? What is their avowed motive? *Self-preservation, and the peace of Europe.* What would be ours? *Self-preservation and the peace of America.* I wish to be understood. I detest, as much as any man, the principles of the Holy Alliance. I yield to no man in my anxious wishes for the success of the Spanish American states. I will go as far as I think any American citizen ought to go, to secure to them the blessings of free government. I commend the solicitude which has been manifested by our government upon this subject, and have, of course, no desire to discourage it. But I am against all alliances, against all armed confederacies, or confederacies of any sort. I care not how specious, or how disguised; come in what shape they may, I oppose them. The states in question have the power and the means, if united and true to their principles, to resist any force that Europe can send against them. It is only by being recreant to the principles upon which their revolution is founded; by suffering foreign influence to distract and divide them; that their independence can be endangered. But, happen what may, our course should be left to our choice, whenever occasion for acting shall occur. If, in the course of events, designs shall be manifested, or steps taken in this hemisphere by any foreign power, which so far affect our interest or our honor, as to make it necessary that we should arm in their defence, it will be done: there is no room to doubt it.

"The decision of that question may safely be left to those who come after us. That love of country, and of freedom, which now animates our public councils, is not confined to us, or likely to become extinct. We require neither alliance nor agreement to compel us to perform whatever our duty enjoins. Our national character is our best, and should be our only pledge. Meanwhile, let us bestow upon our neighbors, the young republics of the South, the moral aid of a good example. To make that example more salutary, let it exhibit our moderation in success, our firmness in adversity, our devotion to our country and its institutions, and, above all, that *sine qua non* to the existence of our republican government—our fidelity to a written Constitution."

CHAPTER XVI.

MR. VAN BUREN'S *opinions on the constitutionality and expediency of appropriations of money by the General Government for Internal Improvements.*

On the 22d of January 1824, Mr. Van Buren called the attention of the Senate to the alarming assumption of power, by the General Government, in regard to internal improvements; and after stating the differences of opinion which had arisen between the Executive and Congress, on several occasions, and the conflicting sentiments of different sections of the Union, he proposed sundry amendments to the constitution, going to limit and define the exercise of this power and secure the state sovereignties from encroachments.

On the 19th of December 1825, he again brought forward the same subject, and offered two resolutions, one of which declared "that Congress does not possess the power to make roads and canals within the respective states;" and the

other proposed a select committee to prepare an amendment to the constitution, "prescribing and defining the power Congress shall have over the subject of internal improvements, and subjecting the same to such restrictions as shall effectually protect the sovereignty of the respective states, and secure to them a just distribution of the benefits resulting from all appropriations made for that purpose."

He urged the adoption of these resolutions, the object of which was to refer the whole matter to the states, on the ground that the power of Congress to legislate upon the subject had been a constant source of unpleasant controversy; that the different departments of the government had never been of one opinion upon the subject; that its friends entertained different views of its source in the constitution, and of its extent and attributes, and that the opposition to its exercise would never be abandoned. He said an appeal to the states had been suggested by Mr. Jefferson, in 1808, and further recommended by Mr. Madison and Mr. Monroe.

The progressive encroachments of the federal Government upon the rights of the states in this particular, were viewed with unceasing anxiety by the republican party throughout the country. Mr. Jefferson in a letter to Mr. Gooch about this period, expressed the most melancholy forebodings. "That, at some future day," said he, "which I hoped to be very distant, the free principles of our government might change with the change of cir-

cumstances, was to be expected. But I certainly did not expect that they would not over-live the generation which established them." After indulging in other similar remarks, and pleading his great age as an excuse for not entering upon their defence, he subjoins : " I will however say one word on the subject. The South Carolina resolutions, Van Buren's motion, and above all Bailey's propositions, show that other states are coming forward on the subject ; and better for any one to take the lead than Virginia, where opposition is considered as common place, and a mere matter of form and habit."*

At every point, these encroachments were resisted by Mr. Van Buren. On the 21st of April, during the same session of Congress, he opposed the appropriation for the Louisville canal, and said : " the aid of this government can only be afforded to these objects of improvement, in three ways ; by making a road or canal and assuming jurisdiction ; by making a road or canal without assuming jurisdiction, leaving it to the states ; or by making an appropriation without doing either. In his opinion, the General Government had no right to do either, and at some future time he should offer his reasons in support of this opinion."

So on the 15th of the following May, on the proposal to subscribe to the Dismal Swamp canal, Mr Van Buren said :

* Jefferson's Works, Vol. IV. p. 424.

"He would not vote for the bill for he did not believe that this government possessed the constitutional power to make these canals, or to grant money to make them. * * If he believed in the power of the government to grant money for this purpose, the present mode would be the last one he should think of adopting. If there was any grant of money, at all, for this purpose, it should be direct. Where aid was granted in the mode now proposed, abuses would creep in, and in nine cases out of ten, deception would be practised. In the state of New York, Mr. Van Buren said, they had had full experience of this, in the application for charters for banks; plausible pretences were set up that the state would be thereby benefited, till these practices became so numerous, that in the end, public opinion was decidedly against them, and the last Legislature, to their honor, had refused all applications of this description. * * As to the question (of constitutionality) being settled, he should protest against the admission of such a doctrine; and he should resist to all intents and purposes, the idea that the acts of this Congress were to bind him and his constituents hereafter."

In the debate on Mr. Foote's resolution, to authorize the Vice President to call to order for words spoken in the Senate, Mr. Van Buren severely reprehended the loose doctrines of the then existing administration in regard to internal improvements, and in a note alludes to his own course in the Senate on that interesting question. It is as follows :

"Mr. Van Buren is by no means certain that in this respect, he himself, has been altogether without fault. At the very first session after he came into the Senate, the knowledge of the perpetual drain that the Cumberland road was destined to prove upon the public Treasury, unless some means were taken to prevent it, and a sincere desire to go at all times, as far as he could consistently with the constitution, to aid in the improvement, and promote the prosperity of the Western country, had induced him, without full examination, to vote for a pro-

vision, authorizing the collection of toll on this road. The affair of the Cumberland road, in respect to its reference to the constitutional powers of this government is a matter entirely *sui generis*. It was authorized during the administration of Mr. Jefferson and grew out of the disposition of the territory of the United States through which it passed. He has never heard an explanation of the subject, (although it has been a matter of constant reference,) that has been satisfactory to his mind. All that he can say is, that if the question were again presented to him, he would vote against it; and that his regret for having done otherwise, would be greater, had not Mr. Monroe, much to his credit, put his veto upon the bill: and were it not the only vote in the course of a seven year's service, which the most fastidious critic can torture into an inconsistency with the principles which Mr. Van Buren professed to maintain, and in the justice of which he is every day more and more confirmed."

The course of General Jackson's administration has done much to throw light upon this subject, especially his famous veto upon the Maysville Road bill. Mr. Van Buren was then a member of the cabinet, and to use his own language, "gave to the measure of which that document was an exposition, his active, zealous, and anxious support."

A condensed view of his sentiments upon the whole subject, is contained in the following extract from a letter written by him, when candidate for the Vice Presidency, to a committee appointed by a public meeting, at Shocco Springs, North Carolina. It is dated in October 1832.

"Internal improvements are so diversified in their nature, and the public agency of the Federal Government in their construction, so variable in its character and degree, as to render it not a little difficult, to lay down any precise rule that will embrace the whole subject. The broadest and best defined division, is that which distinguishes between the direct construction of works of in-

ternal improvement by the General Government, and pecuniary assistance given by it to such as are undertaken by others. In the former, are included the right to make and establish roads and canals within the states, and the assumption of as much jurisdiction over the territory they may occupy, as is necessary to their preservation and use; the latter is restricted to simple grants of money, in aid of such works, when made under state authority.

"The Federal Government does not, in my opinion, possess the power first specified; nor can it derive it from the assent of the state in which such works were to be constructed. The money power, as it is called, is not so free from difficulty. Various rules have, from time to time, been suggested by those who properly appreciate the importance of precision and certainty in the operations of the Federal power. But they have been so frequently infringed upon by the apparently unavoidable action of the government, that a final and satisfactory settlement of the question has been prevented. The wide difference between a definition of the power in question upon paper, and its practical application to the operation of government, has been sensibly felt by all who have been entrusted with the management of public affairs. The whole subject was reviewed in the President's Maysville message. Sincerely believing that the best interests of the whole country, the quiet, not to say the stability of the Union, and the preservation of that moral force which, perhaps, as much as any other, holds it together, imperiously required that the destructive course of legislation upon that subject, then prevalent, should in some proper and constitutional way, be averted, I throughout, gave to the measure of which that document was an exposition, my active, zealous, and anxious support.

"The opinions declared by the President in the Maysville, and his succeeding annual messages, as I understand them, are as follows. 1st. That Congress does not possess the power to make or establish a road or canal within a state, with a right of jurisdiction to the extent I have stated; and that, if it is the wish of the people that the construction of such works should be undertaken by the Federal Government, a previous amendment of the constitution, conferring that power, and defining and restricting its exercise, with reference to the sovereignty of the state, is indispensable. 2d. An intimation of his belief that the right to make appropriations in aid of such internal improvements of a national character, has

been so generally acted upon, and so long acquiesced in by the Federal and state governments, and the constituents of each, as to justify its exercise, but that it is nevertheless, highly expedient that even such appropriations should, with the exception of such as relate to light houses, beacons, buoys, public piers, and other improvements in the harbors and navigable rivers of the United States, for the security and facility of our foreign commerce, be deferred, at least until the national debt is paid. 3d. That if it is the wish of the people that the agency of the Federal Government should be restricted to the appropriation of money, and extended in that form in aid of such undertakings, when carried on by state authority, then the occasion, the manner, and the extent of the appropriation, should be made the subject of constitutional regulation.

"In these views I concurred, and I likewise participated in the difficulties which were encountered and expressed by the President, in adopting the principle which concedes to the Federal Government the right to make appropriations in aid of works which might be regarded as of a national character; difficulties which arose as well from the danger of considering mere usage the foundation of the right, as from the extreme uncertainty of the best rule that had ever been adopted, or that could in the absence of a positive constitutional provision, be established. The reasons on which these objections were founded, are so fully stated in the document referred to, and have been so extensively promulgated, that it is unnecessary for me to repeat them here. Subsequent reflection and experience have confirmed my apprehensions of the injurious consequences which would flow from the resumption of appropriations for internal improvements, with no better rule for the government of Congress than that of which I have spoken: and I do not hesitate to express it as my opinion, that the general and true interests of the country would be best consulted by withholding them, with the exception which I have already referred to, until some constitutional regulation upon the subject has been made.

"In this avowal, I am certainly not influenced by feelings of indifference, much less of hostility to internal improvements. As such, they can have no enemies. I have never omitted to give them all the proper aid in my power; for which by the way, I claim no particular merit, as I do not believe there is an honest and sane man in the country, who does not wish to see them prosper—but

their construction, and the manner in which, and the means by which they are to be effected, are quite different questions. Rather than again expose our legislation to all the corrupting influences of those scrambles and combinations in Congress, which have been heretofore witnessed, and the other affairs of the country, to the injurious effects unavoidably resulting from them, it would, in my opinion, be infinitely preferable to leave works of the character spoken of, and not embraced in the exception which has been pointed out, for the present, to the supports upon which they have reposed with so much success for the last two years, viz: state efforts and private enterprise. If the great body of the people become convinced that the progress of these works should be accelerated by the federal arm, they will not refuse to come to some proper constitutional arrangement upon the subject. The supposition that an equitable rule, which pays a proper respect to the interest and condition of the different states, could fail to receive, ultimately the constitutional sanction, would be doing injustice to the intelligence of the country. By such a settlement of the question, our political system, in addition to the other advantages derived from it, would, in relation to this subject at least, be relieved from those dangerous shocks, which spring from diversities of opinion upon constitutional points of deep interests—and in the mean time, the resources of the country would be best husbanded by being left in the hands of those by whose labor they are produced."

These extracts it will be noticed, go farther than the Veto Message upon the Maysville Road, and assume the ground afterwards adopted by the President, that even for purposes which might be deemed of a national character, no appropriations ought to be made without a previous amendment of the constitution.

CHAPTER XVII.

Sentiments of Mr. Van Buren with regard to protective duties. Votes for the Tariff bill in 1824, and in 1828, by instructions from his constituents. Extract from his letter to the committee at Shocco Springs.

It has been stated on the highest authority, that "Mr. Van Buren's personal feelings have been at all times adverse to the high tariff policy."*

His constituents, however, were generally in favor of protective duties, and his course in the Senate of the United States was strictly in compliance with their sentiments. Accordingly, we find him yielding a silent vote in favor of the tariff of 1824, and that of 1828. In the latter instance, he was guided by the express instructions of the Legislature of New York.

At a public meeting, held in Albany, on the 10th of July 1827, to consider the expediency of co-operating in the Harrisburgh convention, Mr. Van

* Mr. Butler's letter to Mr. Garland, March 1835.

•

Buren delivered a speech of considerable length and great ingenuity. A large part of it was an examination of the tariff bill which passed the house of Representatives in 1827, but was laid on the table in the Senate.

In the course of this speech, however, Mr. Van Buren intimates his serious fears, that the friends of protective duties were urging their measures with too much eagerness. He also cautions the manufacturers against uniting their fortunes with any political adventurer, and predicted, with great accuracy, the overthrow of the great American system, as it was called. The speech was printed and extensively circulated, and contributed in no small degree to the formation of juster views with respect to the protective system.

The views of Mr. Van Buren, on the tariff, were embraced in his reply to the Shocco springs committee, in 1832. The following passages are taken from that reply.

“Although my official acts in relation to the protective system might well be regarded as rendering the avowal unnecessary, I think it, nevertheless, proper to say, that I believe the establishment of commercial regulations, with a view to the encouragement of domestic products, to be within the constitutional power of Congress. Whilst, however, I entertain this opinion, it has never been my wish to see the power in question exercised with an oppressive inequality upon any portion of our citizens, or for the advantage of one section of the Union at the expense of another; on the contrary, I have at all times believed it to be the sacred duty of those who are intrusted with the administration of the Federal Government, to direct its operations in the manner best calculated to distribute as equally as possible, its burdens and blessings among the several states and the people. My views

upon this subject were, several years ago, spread before the people of this state, and have since been widely diffused through the medium of the public press. My object at that time was to invite the attention of my immediate constituents to a dispassionate consideration of the subject in its various bearings; being well assured that such an investigation would bring them to a standard, which, from its moderation and justice, would furnish the best guarantee for the true interests of all. If, as has been supposed, those views have contributed in any degree to produce a state of feeling so much to be desired, I have reason to be gratified with the result.

"The approaching, and if the policy of the present Executive is allowed to prevail, the certain and speedy extinguishment of the national debt, has presented an opportunity for the more equitable adjustment of the tariff, which has been already embraced by the adoption of a conciliatory measure, the spirit of which will, I doubt not, continue to be cherished by all who are not desirous of advancing their private interests at the sacrifice of those of the public, and who place a just value upon the peace and harmony of the Union.

"The protective system, and its proper adjustment, became a subject of frequent and necessary consideration whilst I formed a part of the cabinet; and the manner in which the President proposed to carry into effect the policy in relation to imports, recommended in his previous messages, has since been avowed, with that frankness which belongs to his character. To this end he recommended 'a modification of the tariff, which should produce a reduction of the revenue to the wants of the government, and an adjustment of the duty upon imports, with a view to equal justice in relation to all our national interests, and to the counteraction of foreign policy, so far as it may be injurious to those interests.'

"In these sentiments I fully concur; and I have been thus explicit in the statement of them, that there may be no room for misapprehension as to my own views upon the subject. A sincere and faithful application of these principles to our legislation, unwarping by private interests or political design, a restriction of the wants of the government to a simple and economical administration of its affairs—the only administration which is consistent with the purity and stability of the republican system; a preference in encouragement, given to such manufactures as are essential to the national defence,

and its extension to others in proportion as they are adapted to our country, and of which the raw material is produced by ourselves, with a proper respect for the rule which demands that all taxes should be imposed in proportion to the ability and condition of the contributors, would, I am convinced, give ultimate satisfaction to a vast majority of the people of the United States, and tend to arrest that spirit of discontent, which is now unhappily prevalent, and which threatens such extensive injury to the institutions of our country."

It will only be necessary to subjoin the following extracts from the letter of Mr. Benton to General Davis, to complete the view of Mr. Van Buren's sentiments as regards the tariff.

"He, (Mr. Van Buren) was the first eminent member of Congress, north of the Potomac, to open the war, at the right point, upon the tariff of 1828, then undergoing the process of incubation through the instrumentality of a convention to sit at Harrisburg. His speech at Albany, in July 1827, openly characterized that measure as a political manœuvre to influence the impending presidential election; and the graphic expression, '*a measure proceeding more from the closet of the politician than from the workshop of the manufacturer*,' so opportunely and felicitously used in that speech, soon became the opinion of the public, and subsequently received the impress of verification from the abandonment, and the manner of abandoning, of the whole fabric of the high tariff policy. Failing to carry any body into the Presidential chair, its doom pronounced by the election of Jackson and Van Buren, it was abandoned, as it had been created, upon political calculation; and expired under a *fiat* emanating, not from the *workshop of the manufacturer*, but from the *closet of the politician*. True, that Mr. Van Buren voted for the tariff of 1828, notwithstanding his speech of 1827; but, equally true, that he voted under instructions from his state Legislature, and in obedience to the great democratic principle (*demos*, the people, *krateo*, to govern) which has always formed a distinguishing feature, and a dividing land-mark, between the two great political parties which, under whatsoever name, have always existed, and still exist, in our country. Sitting in

the chair next to him at the time of that vote, voting as he did, and upon the same principle ; interchanging opinions without reserve, or disguise, it comes within the perception of my own senses to know, that he felt great repugnance to the provisions of the tariff act of '28, and voted for it, as I did, in obedience to a principle which we both hold sacred."

1
2
3
4

5

6

7

8

9

10

11

12

13

14

15

16

CHAPTER XVIII.

MR. VAN BUREN'S support of a strict construction of the constitution, with extracts from his speech on the power of the Vice President to call to order, for words spoken in debate, in the Senate.

No one subject has more widely separated the antagonist political parties in the United States, than the different principles of construction, applied by each, to the Federal Constitution. It has been the constant effort of the democratic party, to confine the powers of the Federal Government to the exact and express limits, fixed by the letter of the constitution. The party opposed to them, have been equally persevering in their efforts to extend the Federal jurisdiction, by resulting, constructive, and implied powers, not warranted by the text of the constitution, or contemplated by its framers, but flowing, as it is claimed, from certain general clauses, of which the purport is not specific and definite. The most striking examples of the exercise of incidental or implied powers, are the incorporation of a bank of the United

States, and the expenditure of the public funds for internal improvements. No express authority is given, in the constitution, for either of these measures. But Congress are authorized to receive and disburse the public revenue, and are authorized to make the laws "necessary and proper" for this end ; and it has been held that a bank is necessary and proper, and hence, that the power to create one, may be derived from a liberal construction of the specified powers. The constitution does not expressly authorize the expenditure of the public money for internal improvements ; but it is said to be *implied* in the power to establish post-offices and post-roads, or in the power to regulate commerce, or in the clause which speaks of providing for the general welfare. Upon such slight grounds, has been erected, a magnificent system, embracing the most important interests of the country, and involving the exercise of more important functions, by the General Government, than any which have been expressly granted in the constitution.

In the first place, the power which is given to the General Government of imposing duties on imported articles, has been carried to such an extent, under the pretence of fostering domestic industry, as to fill the treasury with surplus funds, beyond the current expenses of the government. In the second place, as part of the same system, these funds have been intended to carry on magnificent roads and canals, in certain parts of the Union, the control of which was to be in the

Federal government, and would have involved an immense executive patronage. Connected with these schemes, was a vast national bank, professedly established for national purposes, but principally owned by individuals, with branches in every part of the Union beyond the control of the state governments, and capable of exercising an unlimited influence over the pecuniary interests of the whole community.

Thus was built up, what was called the "Great American System;" a system devised to promote the ambitious views of individuals, based wholly, as we have seen, upon distorted constructions of the constitution, and sustained, for a time, by appeals to local or partial interests. This vast scheme was fitted to expand the powers of the Federal government enormously beyond its constitutional limits; so that it must, eventually, have swallowed up, as in a vortex, all the interests of the confederated states. The legislative department of the government, alloyed by local interests, or party prejudice, or individual schemes of aggrandizement, was temporarily led into its support; the judiciary department co-operated, with the full weight of its character and influence, to fasten this gigantic "system" upon the nation. The Executive had the shelter of long precedent and the force of previous example, to draw it into acquiescence;* but it yielded not. The com-

* The writer alludes, (with pain,) to the assent of General Washington and Mr. Madison, severally, to the charter of the United States Bank; and Mr. Jefferson's acquiescence in the project of the Cumberland road.

manding intellect of General Jackson saw the alarming danger ; his more than Roman firmness encountered it ; the constitution was rescued and the country saved. The magnificent schemes of national roads and canals, already contemplating expenditures to the amount of nearly one hundred millions of dollars, vanished at his touch ; the extravagant system of impost duties, which had brought the country to the eve of a civil war, was reduced, by his energy, to its proper medium ; and finally, the national Bank, the most formidable engine ever invented to corrupt the principles and undermine the liberties of a republic, sunk beneath the repeated applications of his eloquent denunciations and official power. The great battle has been fought between the friends of the constitution and the partizans of aristocratic corruption. The country now reposes in safety. While our present venerable chief magistrate sits at the helm of state, neither secret corruption nor the formidable threats of coalescing factions, can endanger popular rights or invade the constitution. But into whose hands, after his withdrawal, are these sacred interests to be committed ? What are the sentiments of him who may possibly succeed to this responsible trust ? Will he abide by the letter and spirit of the constitution, or will he be led astray, by the fraudulent inventions of modern times, and leave the charter of our freedom to the perversions of selfish partizans ? An answer to these questions, so far as Mr. Van Buren is concerned, may be found in the following

extracts. They are from a speech which he delivered in the Senate of the United States, in the winter of 1828, on a motion to invest the Vice President with power to call to order for words spoken in debate ; a power which the advocates of a loose construction, pretended to derive by *implication* from the nature of the office.

In the outset of his remarks, Mr. Van Buren expressed his indifference as to the fate of the particular proposition before the Senate ; it was the *source* from whence the power of calling to order had been claimed for the Vice President, which had excited his anxiety. In claiming that power by implication, he said, "principles had been advanced and earnestly supported, against which he felt it to be his duty, at least, to protest. Nay more ; such was his repugnance to the doctrines he had heard, so deep was his conviction of the error in which they were founded, that he could not, without being disloyal to the most sacred of his official duties, refrain from resisting them."

He then went into a careful examination of the true nature and limits of the power of the Vice President, and proceeded to remark on the general doctrine of implied and constructive powers, as follows :

"In every point of view, said Mr. Van Buren, in which this subject had presented itself to his mind, it had produced but one sentiment, and that was unqualified opposition to the *prerogative* claimed for the chair. Although this claim of power is now, for the first time made, the *principle* in which it originates is as old as the government itself. I look upon it, sir, as the legitimate offspring of a

school of politics, which has, in times past, agitated and greatly disturbed this country; of a school, the leading principle of which may be traced to that great source of the political contentions which have pervaded every country where the rights of man were in any degree respected. I allude, sir, to that collision which seems to be inseparable from the nature of man, between the rights of the *few* and the *many*, to those never-ceasing conflicts between the advocates of the *enlargement* and *concentration* of power on the one hand, and its *limitation* and *distribution* on the other; conflicts which, in England, created the distinction between Whigs and Tories; the latter striving by all the means within their reach to increase the influence and dominion of the throne, at the expense of the common people; and the former to counteract the exertions of their adversaries, by abridging that dominion and influence for the advancement of the rights and the consequent amelioration of the condition of the people.

"Collisions of opinion and of action of a character similar in principle have existed, although under different denominations, with different limits, and for different ends, in most countries, and in an eminent degree in this. Indeed the history of the struggles, the contests, the alternating victories and defeats of these two restless and rival principles, is the history of all republican governments,—in fact, of all institutions formed for the protection of the liberty of conscience and opinion, and the freedom of the citizen. No where can its operation be more distinctly traced than in our own early history. They were the primitive elements, and animating causes of those whig and tory parties, which, from the first Congress of 1765, down to the glorious peace of 1783, on the one hand labored unceasingly to consolidate all legislative authority over these provinces in the single British parliament, and to place all patronage, power, and influence, in the hands of the executive and judicial representatives of the *Crown*; and on the other hand, as boldly and perseveringly, but happily more successfully, vindicated by reason, eloquence, and finally by arms, the rights of the several American states, and the just powers of the immediate representatives of the *people*. The establishment of our independence put an end to these conflicts, in the form in which they had before been sustained; but what its effect was upon the spirit that produced them, could be better judged from an attentive consideration of our subsequent history. Attempts, said Mr. Van Buren, have

frequently been made in later days, and recently by the highest authority in the government, to trace the origin of the two great political parties which have divided the country, from the adoption of the constitution to the present day. They have, for motives too obvious to require explanation, been attributed to causes which had either become obsolete, or been compromised by mutual concession—such as the early difficulties growing out of our relations with Great Britain and France, the expediency of a navy, or similar questions. There was one consideration, he said, that could not fail to arrest the attention of the most superficial observer. It was this. If these party divisions have sprung from no other cause than the temporary circumstances to which they have been attributed, why have they so long survived the causes that produced them? That they still exist, and exist in full vigor in a great portion of the Union, it would be an insult to our observation and understanding to deny. The explanation of the mystery was to be found, and to be found only, in the falsity of the ascription. They arose from other and very different causes. They are, in truth, said he, mainly to be ascribed to the struggle between the two opposing principles that have been in active operation in this country from the closing scenes of the revolutionary war to the present day—the one seeking to absorb, as far as practicable, all power from its legitimate sources, and to condense it in a single head; the other, an antagonist principle, laboring as assiduously to resist the encroachments, and limit the extent of executive authority. *The former has grown out of a deep and settled distrust of the people and of the states.* It consequently regards as gain, every thing that can be drawn into the vortex of federal power, and as making that power still more safe in proportion as it is withdrawn from the popular departments of the federal government to those that are further removed from the control of public sentiment. *The antagonist principle has its origin in a jealousy of power, justified by all human experience.* It is founded on the assumption, that the disposition of man to abuse delegated authority is inherent and incorrigible; it therefore seeks its only security in the limitation and distribution of those trusts which the very existence of government requires to be reposed somewhere. Hence, the aversion of its supporters to grant more power than is indispensably necessary for the objects of society; and their desire, as an additional safeguard, to place that which is confer-

red in as many hands as is consistent with efficiency. The former is essentially the *monarchical*, and the latter the *democratical* spirit, of society. He wished not to be misunderstood. He used these terms, as more expressive of his meaning, than any that occurred to him. He had no idea that all, or even the great body of those who either now, or in times past, had been subject to the influence of the first principle, were in favor of the establishment of a monarchy in this country, any more than he believed that those who had shown their preference for democratical principles were in favor of the establishment of an absolute democracy—neither side had views thus extensive. The forms of both were repudiated, while their respective spirits were, to no considerable extent, retained. The earlier battles upon this cardinal point were fought upon the question of the degree of *energy*; or in other words, *power* that ought to be given to the Federal Government, at the expense of the states and the people. They commenced in the convention of 1787, and soon spread through the great body of the people, upon the question of ratification. The proceedings of that convention were for a long time secret, but are now before the public. In them, when taken in connection with later events, we read the grounds of our subsequent political dissensions, in language so plain, that none but those who are wilfully blind can be deceived. There were, of course, different degrees, as to individuals; but the leading division in the convention was between those who, distrustful of the states, sought to abridge their powers, that those of the new government might, thereby, be enlarged, and those who, on their part, distrustful, perhaps jealous of the government about to be created, and possessing full confidence in those of the states, were as strenuous to retain all powers not indispensably necessary to enable the Federal Government to discharge the specified and limited duties to be imposed upon it. The contest was animated, and, as it is well known, more than once threatened a dissolution of the convention, without agreeing upon any thing. Necessity, however, ultimately compelled a compromise. The terms were arranged as well as practicable. The then friends of state rights, (the true *federalists*, but who, by a singular misnomer, were immediately after called *anti-federalists*, whilst those who had throughout opposed the federal principle, assumed the then more popular name of *federalists*,) succeeded, or thought they succeeded, in saving

much of what they had so earnestly contended for. The advocates of what was in the language of the day called a *strong General Government*, certainly failed in obtaining by express grant, or necessary implication, much of what they had so long and so ably struggled to acquire for the new government. The question of ratification came on, and was full of difficulty. The abuses to which some of the more general provisions of the constitution might be exposed, were pointed out by its opponents. The concealed powers of the constitution, which are at this day put forth with so much confidence, were disclaimed and condemned by those who advocated the ratification. No candid and well-informed man, will for a moment pretend that, if the powers now claimed for this government had been avowed at the time, or even had not been expressly disclaimed, there would have been the slightest chance for the adoption of the constitution, by the requisite number of the old thirteen states.

But it was ratified, said Mr. V. B., *and from the moment of its adoption to the present day, the spirit he had described, had been at work to obtain by construction what was not included or intended to be included in the grant.* It was far from his intention to urge this as a reproach against the actors in those scenes. He was persuaded that the motives of many, if not of all, were pure, and even patriotic. They believed that the state Governments were not safe depositories of power; that the states would be able to control, and would injuriously control the Federal Government, unless it had more power than the convention of 1787 was willing to grant. They thought, and one of them with that ingenuousness of feeling which distinguished his noble nature, avowed officially, that the true question was, not what the framers of the constitution intended, or what those by whom it was ratified understood, but what was the correct construction of the terms in which it was expressed. This great man knew well that the power then claimed for the government, could be sustained on no other grounds, and he was always above disguise.

I am not, said Mr. V. B., condemning their motives, but controverting their opinions. The test that was then applied to the constitution, has been adjudged erroneous and unjust, by the judges in the last resort—*the people themselves*. The belief, (no doubt honestly entertained by many,) that its application was necessary to the success of the scheme and to the welfare of the country, was

founded in impressions as to the character of the state governments, which experience has demonstrated to have been unfounded. Many of the most distinguished of those who then entertained those opinions, have since abandoned them, convinced by the results of that experiment which has since been made. Fifty years experience of the operation of the state governments, has made 'assurance doubly sure,' that they richly deserve the confidence which the people have ever been inclined to bestow on them. Under the broad shield of state laws, private rights have been protected, while public prosperity was promoted. In the darkest hours of war, when the General Government was disheartened and enfeebled by debt and disaster, its unnerved arm was strengthened, and the national honor rescued, by the authority, the patriotism, and the credit of the states. In peace they have not only fulfilled wisely and justly all the great purposes of self-government, but several of them have established noble systems of public instruction, or have accomplished, or are now accomplishing great works of internal improvement, as far surpassing in magnitude and utility any similar works of the General Government, as they do in wisdom of plan, and economy, and judgment in execution. *A general surrender of such opinions, is, therefore, at this time, a tribute justly due to the redeemed and established character of the state governments.* But they are not surrendered—on the contrary, they have become more and more extravagant, until those under whose protection they now are, claim for this government powers which were in express terms repudiated and denounced by the founders of this very school.

Mr. V. B. said, he would not feel himself at liberty to detain the Senate by following the track of the government in its whole extent, and through all its sinuosities, to establish his positions, but he could not avoid doing so in part. The subject was one of deep interest, of which it behooved the American people to be fully informed, but which it was to be feared is more frequently spoken of than understood. The mass of our citizens are so much engrossed in the affairs of their state governments, that this great matter is in no inconsiderable degree neglected.

"During the administration of General Washington, no acts of a strong character took place, save the incorporation of the bank of the United States, that great pioneer of constitutional encroachments, together with

the principles avowed in relation to the treaty-making power. The attachment of General Washington to the constitution, his consciousness of the difficulty which had attended its establishment, and the natural moderation of his character, coming in aid of the firm countenance maintained by the anti-federalists of that day, kept the spirit of encroachment and construction within bounds, that, compared with its present character, were reasonable. But in the administration succeeding that of General Washington, continuing through the years of 1797, '98, '99, it displayed itself in its true and most odious character. Its fruits were so bitter, and are so well remembered, that any thing like a minute description of them would be an act of supererogation. It was then that the monarchical and aristocratical character of the spirit he had described, was displayed in unceasing efforts to wrest from the states the powers that justly belonged to them, to exercise such as had never been conferred, and to concentrate, as far as practicable, all authority in the hands of the President.

"Among the usurpations of the day, the alien and sedition laws stand in bold relief, not only as furnishing landmarks of the extent to which the presumption and arrogance of power dared to go, but also on account of their agency in driving from public confidence those by whom they were adopted. The inclination to draw the powers of the government to one common focus, has been otherwise exemplified in various ways, and at different periods of our history. Time would only allow a brief notice of one or two of them.

"The doctrine announced in the discussions on the British treaty, that the house of Representatives were bound to make all appropriations necessary to carry into effect the stipulations of a treaty made by the President and Senate, was a striking exemplification of this truth. The extent to which this doctrine increases the executive power, (in its most enlarged sense,) over the funds of the nation, cannot fail to strike the mind at the first blush. He did not wish to be understood as saying, or insinuating, that all who advocated that opinion, were influenced by the spirit of which he had spoken. He did not believe that such was the case. On the contrary, he was well satisfied that there were those, on that occasion, as well as on that of the incorporation of the Bank of the United States, (and especially him who was at the head of affairs,) who were sincere friends to the state governments,

but were led away by the pressure of the times, and gave their assent to measures which, under more auspicious circumstances, they could not have approved. The principle then avowed was resisted by the republicans of that day, on the simple but intelligible grounds, that, so far as the treaty stipulation could be carried into effect without the aid of the house of Representatives, its interference would be unauthorized, because, by the constitution, the treaty-making power had been conferred on a different department of the government; but that, whenever the action of the house of Representatives, the more immediate agents of the people, was necessary, it must be free to give or withhold its assent, according to its best judgment, and upon its own responsibility; that the constitution neither declared nor intended, that, in cases which might be of the greatest magnitude, it should be a mere machine to be worked by the other departments of the government. The same disposition to limit the powers of the popular branch, was forcibly illustrated in the discussions on the '*foreign intercourse bill*' in 1798. It was upon that occasion contended, and successfully too, that the house of Representatives had no discretion upon the question of appropriation for the expenses of such intercourse with foreign nations as the President saw fit to establish—that they would be justly obnoxious to the imputation of gross delinquency, if they hesitated to make provision for the salaries of such foreign ministers as the President, with the assent of the Senate, should appoint. What would be the feelings of real and unchanged republicans, in relation to such doctrines, at this day? Associated with them was the bold avowal, that it belonged to the President alone to decide upon the propriety of the mission, and that all the constitutional agency which the Senate could of right have, was to pass on the fitness of the individuals selected as ministers. It was pretensions like these, said Mr. Van Buren, aided by unceasing indications, both in the internal and external movements of the Government, that produced a deep and settled conviction in the public mind, that a design had been conceived to change the government from its simple and republican form, to one, if not monarchical, at least too *energetic* for the temper of the American people—a conviction which beyond all doubt, produced the civil revolution of 1800, and for which no 'oblivious antidote' has been yet discovered by those who were its victims. By that great event, the public sentiment

was improved, our public councils purified, the spirit of encroachment severely rebuked, and, it was then hoped, extinguished forever. During Mr. Jefferson's administration, and with a single exception, that of Mr. Madison, the government was administered upon the principles which the framers of the constitution avowed, and which their constituents had ratified, and the people once and again confirmed. The charter of the bank of the United States, was, after a hard struggle, suffered to expire; and the conceded and well-understood powers of the government were found amply sufficient to enable it to perform the great functions for which it was instituted. During a great portion of the time the country was blessed with a degree of prosperity and happiness without a parallel in the world. At the close of Mr. Madison's administration, a new bank was incorporated, and received his reluctant assent. It would be shutting our eyes to the truth to deny, or to attempt to conceal the fact, that that assent, coming from the quarter that it did, has had a most powerful and far from salutary influence on the subsequent course of the government. Its author had himself, on a former occasion, demonstrated the want of power in the Federal Government to incorporate a bank, and his assent was now placed on the express ground that the recognition of the authority of the government in relation to the old bank, by the state governments and the courts, as well as the people, had precluded the question of constitutionality. Thus the power in question must stand as a successful interpolation upon the text of the constitution. This great precursor was again followed by other attempts, but of a restricted and qualified character, to extend the same principle to other topics of legislation. They were, however, promptly defeated by Mr. Madison, who, upon all points, save the bank of the United States, preserved inviolate the great principles upon which the revolution of 1800 was founded, and of which his own report upon the alien and sedition laws was the exposition. For his departure, in that particular, (if a departure it was,) his reasons have been seen. It is not, at this time, my official duty to pass upon their sufficiency; and I am wholly unwilling to volunteer a denunciation of any opinion, deliberately formed, and upon high responsibility, by one of the most, if not *the* most, accomplished statesmen that our country has produced. However individuals might differ as to the correctness of his conclusion, all mankind must acquiesce in the purity of

the motives which led to its adoption. The political condition of the country, at the close of the late war, in reference to old party distinctions, speculation as to the future, and the aspirations of individual ambition, accompanied, in many cases, by a sincere desire to promote the public good, produced occasional attempts during the administration that followed, to revive in a form less exceptionable, the doctrine which had already been so emphatically condemned by the people. They were, however, in a great degree, restrained, and kept down by the resistance of the remnant of the faithful, and the qualified opposition of Mr. Monroe.

"But if these attempts, said Mr. V. B., to revive the condemned heresies of former times, were not of themselves successful, they served the purpose of giving countenance to pretensions on the part of men now in power, which out-Herod Herod. The opening scenes of the present administration, have not only been the subjects of intense interest in their day, but will mark an interesting era in our future history. They will stand as a beacon to succeeding administrations, warning them of the point beyond which the people will never tolerate encroachment upon the great charter of their liberties. The present Executive, in his exposition of the constitutional powers of this government has gone far beyond the utmost latitude of construction heretofore claimed, as if to give point to his extravagant pretensions—to demonstrate that the result of the last election was not only the restoration of the men of 1798, but of the principles of that day, we have seen a great portion of the obnoxious doctrine then contended for again broadly advanced in the assumption, that it was within the 'constitutional competency' of the Executive to have sent ministers to the Congress of Panama, without the assent of the Senate; and, sir, to give a high finish to the picture, it is now strenuously contended, from a quarter in amity with the Executive, that the control of the rights and privileges of the Senators, on this floor, and their constituents, in a most essential particular, is a power *inherent* in the office of the Vice President of the United States. I have, sir, been brought up in opposition to that school of politics from which such principles are legitimate emanations. From my first acquaintance with public affairs to the present day, I have regarded it as a sacred duty to resist them; and I consider myself, on this occasion, as in the discharge of that duty. The grave matters of which I have


spoken, with much more of what I might have spoken as daily passing before our eyes, are, as has been before observed, identical in principle with those which were so emphatically adjudged against by the people, in 1800. They are presented in a different and far more dangerous form; but they are, nevertheless, the same. The spirit of encroachment has, it is true, become more wary, but it is not a bit more honest. Heretofore the system was *coercion*; now it is *seduction*. Heretofore unconstitutional powers were exercised to *force* submission, now they are assumed to *purchase* golden opinions from the people with their own means. It is a great mistake, sir, to attribute the radical change in government, effected contemporaneously with the election of Mr. Jefferson, either to excess of taxation, or practical oppression under the alien and sedition laws. Those, doubtless, produced great and just excitement; but it did not belong to their nature to produce such lasting consequences. Acts of individual oppression had been committed before, and have, in different degrees, been committed since. But, after having caused more or less of public excitement at the time, they have passed away with the occasion that produced them. Such is human nature now—such has it been in all ages of the world. The acts I have alluded to, highly exceptionable as they undoubtedly were, could never have produced an unyielding *exclusion from the confidence of a majority of the people, for more than a quarter of a century, of large masses of men distinguished for talent and private worth*. No, sir, said he, the cause of that great and glorious struggle lies deeper—much deeper. It proceeded, not from the consequences of those acts, but from an opposition to the principle upon which they are founded—that principle was an *alarming extension of the constructive powers of this government*—it arose, as he had before said, from a settled conviction in the minds of the people, that a deliberate plan had been formed by the men then in power, to change the government, from its true republican form, to one, if not *monarchical*, at least too much inclined to that direction. It was the apprehension that they were about to be despoiled of the promised fruits of the revolution, that aroused and called into vigorous action that same great spirit by which the revolution itself was accomplished. It is to that cause only that results unknown to the politics of any other country, are to be attributed. The cause was at least adequate, if *all* the consequences have not

been permanent. And what is the true character of the times upon which, in the course of events, and the providence of God, we have fallen? Most unpropitious, truly.

"If the views in relation to the powers of this government, avowed by the present Executive, and which lie at the foundation of the present administration, are the true doctrines of the constitution, *then was 'the great political revolution of 1800 founded in gross error, if not palpable fraud upon the people.'* Disguise the matter as you will, said he, 'to this complexion must we come at last.' It was most manifest, he said, that whatever effect the events of 1797-8-9 and 1800 had had upon the federal men of that day, their consequences upon the *principles* that then prevailed, have not been as effectual as was hoped, and for a season believed.

'We have scotched the snake, not killed it;
'She'll close and be herself again.'

"But he trusted the prediction would not be verified. *She'll not close again.* The people will prevent it. He must indeed be a miserable judge of public sentiment, who cannot see in its daily indications that the same spirit which once before rescued the constitution from the hands of its enemies, is at this moment fully roused. The excesses of the last three years have produced in this country changes of public opinion wholly without precedent. The time, he trusted, was not far distant, when the interpolations which had been attempted upon the constitution, with the wretched sophisms by which they were supported, will be subjects of severe reprehension; nay, of derision, with the people, and when a great portion of the talents that have been employed in weaving the net, will need all its own ingenuity to escape its meshes. He hoped he had not been understood as supposing that all who had heretofore been ranked among the supporters of the high-toned doctrines he had condemned, must of consequence occupy the same station now. By no means. He would be ashamed of himself to be found the author of sentiments so contracted and illiberal. He knew too well that although, to a certain extent, names are things, they are not always the unerring evidence of the things they signify. *The full experiment, in peace and in war, which we have now had of the respective operations and efficiency of the Federal and state governments, ought to satisfy every disas-*



sionate inquirer after truth, of the fallacy of opinions once so extensively entertained. Those who thought so ought to abandon them, and all who are wise enough to be honest, will do so. It is of itself immaterial by what political appellation men have heretofore been called. The great question is, what are honestly their present sentiments upon those great points which have, from the beginning, divided the American people, and would, he feared, continue to do so to the end?

“Mr. Van Buren said that, contrary to his first impression, he would vote in favor of the whole amendment proposed by the Senator from Connecticut. He would do so because it would be the most effectual manner in which he could assist in putting down what, with all respect for the opinions of his fellow Senators, he could not but regard as a monstrous construction of the constitution. The amendment proposed an appeal from the decision of the Vice President to the Senate. If he believed that the Vice President possessed the power in question by virtue of his office, he could not vote for so great an encroachment upon his constitutional rights as to subject their exercise to a supervision not provided for by the constitution. If, therefore, the amendments were adopted, he hoped we should hear no more of an *inherent right*, which you, sir, have, much to your credit, refused to usurp, and which we, as I cannot but think, to our discredit, are attempting to force upon you, *volens volens*.”

CHAPTER XIX.

Pernicious effects of the system of incorporated Banking companies in the United States. Opposition of Mr. Van Buren to the extension of this system in the state of New York. His opposition to the bank of the United States.

It is the striking remark of a statesman of much experience in public affairs, who, amid dignified retirement, in the evening of his days, has devoted a penetrating mind to the most elaborate political research, "*that associated wealth is the dynasty of modern states.*"*

The apothegm is true of Europe, where bankers are already the real monarchs, and a poor nobleman or a poor king is as impotent as any other poor man. But in this country it has its most

*The Hon. Samuel C. Allen, of Mass., whose disinterested efforts to defend the rights of those who live by their own labor, has brought upon him the most outrageous abuse, from those who live by the labor of their fellow-men.

striking application. The written charter of our national liberties guards against a dynasty of hereditary rank or of legitimate descent. It has not proved a safeguard against a dynasty of associated wealth. The aristocratic principle, which is inherent in the nature of man and has exhibited its activity in all ages, by monopolizing the blessings of life, has been cut off from most of its accustomed means of manifestation, by the founders of our government. The spirit of tyranny cannot exhibit itself in this country by monopolizing legislation, or titles, or rank. Orders of nobility, primogenital rights, inherited rank, and birth right privileges, of every kind, have been exterminated by the bravery and wisdom of our patriotic ancestors. But one channel remains for the spirit of aristocracy to pour its entire flood into ; it is the monopoly of wealth. One weak point exists in the fortress of our freedom ; it is that which may be assailed by the engine of combined wealth. One order of nobility is not guarded against ; an order untitled, it is true, but possessing attributes more radically injurious to popular rights than all the empty insignia of foreign aristocracy. It is based, not upon the respect which is naturally paid to the descendant from a long line of illustrious ancestors, but upon the influence of that sordid principle in men, which, the greatest of all reformers in religion and politics, characterized as "the root of all evil." Wealth is the grand engine of self exaltation and of popular oppression in this country. Such is the nature of our institutions that the love

of domination, inherent in the human breast, has here, no other outlet.

Of all inventions which have been put in operation, in this country, to promote the inordinate accumulation of wealth, the most exceptionable are *incorporated companies* ; and the worst of all incorporated companies are *banks*. It is a cardinal principle of political economy that labor is the only means of *creating* wealth. Labor draws wealth from land and from other natural sources. Its operations are greatly aided by capital, in various shapes, and in some branches, a certain amount of floating capital, that is, money and credit, is almost indispensable. The laborer seldom possesses this capital ; he is willing to give a portion of the proceeds of his labor, for the use of it ; and the owner of the capital is thus enabled to enjoy a portion of the fruits of the poor man's labor. Such must ever be the course of things where any inequalities of wealth exist ; and inequalities of wealth must exist while inequalities of natural talents, of virtue and intelligence, pervade a community. But it is the policy of political systems which aim to secure the happiness of all, in equal degrees, to diminish these inequalities, as far as possible, by preventing the individual aggregation of capital, and securing to labor its entire fruits. Banks and monied incorporations strongly counteract this policy. They combine the floating capital in great masses, and enable its owners by co-operation, to prescribe conditions for its dispensation to borrowers, which are oppressive and burdensome.

They impede the natural tendency of capital to equalization and distribution. They create no wealth; their only functions are to accumulate capital and direct its operations. Their special privileges and extensive combinations of selfish interests, enable them to do this, in such a way, as to extort from industry an undue portion of its results. The very object of an incorporate charter is to give its possessors artificial powers and special privileges, not enjoyed by others, or an exemption from liabilities to which others are subjected. Rich men, thus combining their fortunes to a certain extent, to control the loaning of capital, and, unlike ordinary partners in business, exempt from personal liability, are enabled to oppress the individual laborer who, in solitary poverty, eats his bread "in the sweat of his face."

All such combinations of wealth against labor, of accumulation against productive industry, of the rich against the poor, ought to be regarded with disapprobation, by a government which professes to dispense its benefits, equally, to all.

The federal constitution gives to the General Government the exclusive right to coin money. This would seem to vest in that government, a control over the circulating medium of the nation. But in point of fact, a paper currency has been almost universally substituted for the constitutional coin of the government. The privilege of manufacturing this circulating medium has been conferred, by state Legislatures, upon a multitude of

incorporated banks ; and they have substituted, instead of money, their own credit. Their notes are called money, and are made to perform its functions; and the prerogative of the Federal Government has, thus, in fact, been usurped by these corporate bodies. It may reasonably be doubted whether the whole system, from beginning to end, is not an infraction of the constitution. It is, at least, an evasion of its plain provisions, pernicious in its influence upon industry and morals, and meriting the firm resistance of all true lovers of equal rights.

At the head of the vast system of machinery in this country, for the undue aggregation of wealth, stands, or rather stood, the bank of the United States. Resisted in its embryo state, by Jefferson, struck down for a time by the casting vote of Vice President Clinton, it has finally received its death blow from the hand of our present illustrious chief magistrate.

The sentiments of Mr. Van Buren, on a matter of so great importance, deserve a careful examination, and a view of them will be given here.

In the first place, it may be stated, that he has wholly abstained from becoming the owner of any bank stock, or taking any interest in any company incorporated by the Legislature of New York, since the period of his first entrance into the Senate of that state, in 1812.

In the next place, he has been a firm opponent throughout his whole public life, of the extension of the banking system in the state of New York and of a bank of the United States.

His public opposition may be traced back to 1811. In February of that year, the venerable George Clinton, the Nestor of the New York democracy, by his casting vote, as President of the Senate, defeated the renewal of the charter of the bank of the United States. Mr. Van Buren ardently and vigorously sustained this bold act of patriotism.

When the project of replacing this bank by the bank of America in New York, was brought forward, Mr. Van Buren took the most decided stand against it. He was active in originating a convention of the democracy of his country to oppose it, and delivered an elaborate and powerful speech against the proposed measure.

In the spring of 1812, Governor Tompkins prorogued the Legislature, to prevent the passage of the charter for the bank; and Mr. Van Buren yielded this energetic, but necessary, exercise of power, his firmest support.

The opposition of Daniel D. Tompkins to banks in general, is well known; an opposition in which the elder and younger Clinton co-operated. Mr. Van Buren, during his whole political course in the state of New York, was found in the same opposition. No public man has ever been more opposed to the extension of the banking system. The journals of the New York Senate evince, that during the many years he was a member of that body, he was constant and zealous in his opposition to the increase of banks. After he ceased to be a member of that body, he viewed every mea-

sure, calculated to check the extension of banks, with strong approbation; and in May, 1827, in the Senate of the United States, he alluded to the applications for bank charters in the state of New York, and said "the Legislature, to its honor, at the last session, had refused *all* applications of this description."

The question of re-chartering the bank of the United States did not arise during his service in the United States Senate. But the doctrine of a strict construction of the constitution, which he maintained on all occasions, was levelled in a great measure, against the bank of the United States; and in his speech on the powers of the Vice President, in 1828, he characterises the incorporation of that bank as the "great pioneer of constitutional encroachments."

This solemn declaration against the constitutionality of the bank was made, it will be noticed, before the election of General Jackson to the Presidency, and two years before his message in 1830, first calling the attention of Congress to the renewal of the charter.

Having thus shown Mr. Van Buren's steady opposition to the banking system, in general, and the bank of the United States in particular, from his first entrance upon political life to the last session of his service in the Senate of the United States, it may be proper to bring down this part of our subject to the present time, though we shall be obliged,

thereby, to anticipate some portion of the regular narrative.

In the summer of 1832, when Mr. Van Buren was a candidate for the office of Vice President, a letter was addressed to him, by a committee of a public meeting in North Carolina, requesting an expression of his sentiments on various topics of public interest. His reply to this letter is dated October 4th 1832. So far as it relates to the protective system and internal improvements, it has already been laid before the reader, under those respective heads. The part which relates to the bank of the United States is as follows:

"I am unreservedly opposed to a renewal of the charter of the United States bank, and, approve of the refusal of the President to sign the bill passed for that purpose, as well on account of the unconstitutionality, as the impolicy, of its provisions."

In the winter of 1834, the country was suffering from the oppressions of the bank of the United States, which followed the removal of the deposits. The firmness with which Mr. Van Buren sustained every measure for the suppression of the bank, drew upon him and his political friends, every species of suspicion and abuse. Among other things it was suggested, that a transference of the bank from Philadelphia to New York was the end, really, in contemplation. The insinuation was indignantly repelled by Mr. Wright of the Senate, in behalf of the democracy of New York: and the hearty concurrence of Mr. Van Buren in this refutation of a calumny, was fully known to all.

When the panic arising partly from the scarcity of money, but more from the inflammatory harangues of certain members of the Senate, was at its greatest height, and the situation of the commercial community, had become truly alarming, Mr. Van Buren received a letter from a personal and political friend, advising him of a proposed application for a new bank, to be fixed in the city of New York, and free from many of the objections to the existing bank. In his reply, among other similar sentiments, is the following :

“ As it has been thought proper to advise me, in advance of the contemplated movement, I should be wanting in candor, and I think in duty also, if I left you for a moment uninformed of my sentiments upon this subject. The application of which you speak, could serve no other purpose than to aid the existing bank in the efforts it is making to obtain an extension of its charter, and to expose the motives of the opponents of the bank who unite in it, to the imputation (doubtless in the present case an unjust one) of having been influenced in their opposition by selfish motives. Of this, I have not the slightest doubt. And without having communicated with the members, or laying claim to information that is not open to all attentive observers, I cannot hesitate in believing, that it would be impossible to obtain a dozen votes in favor of such a proposition, in both branches of the National Legislature. At all events, I think it proper, to say to you, that it could not receive either countenance or support from me. I could not act otherwise, without a departure from principles which I sincerely entertain, which have been avowed to the people before my election, and which I feel it to be a sacred duty to maintain inviolate.”


The Hon. Thomas H. Benton, United States Senator from Missouri, in a letter to General Davis of Mississippi, dated December 16th 1834,

bears testimony to the sentiments of Mr. Van Buren, at that time. Mr. Benton's efforts to restore to the country a constitutional currency have given him a proud distinction: the country yet expects much from his exertions. On a point, with regard to which his own views are so clear and his solicitude so great, that his testimony is of peculiar value, and his means of obtaining accurate information are complete. Alluding to Mr. Van Buren, he says :

"I have known that gentleman long and intimately. We entered the Senate of the United States together, thirteen years ago, sat, six years, in seats next to each other, were always personally friendly, generally acted together on leading subjects and always interchanged communications and reciprocated confidence. * * * He, (Mr. Van Buren) is a real hard money man ; opposed to the paper system ; in favor of a national currency of gold ; in favor of an adequate silver currency for common use ; against a small note currency, and in favor of confining bank notes to their appropriate sphere and original function, that of large notes for large transactions and mercantile operations."

Finally, it will be proper to subjoin the authorized statement of a gentleman who possesses the confidence of Mr. Van Buren in an eminent degree, and whose testimony is beyond impeachment. Mr. Butler, in his published letter to Mr. Garland in March 1835, says of Mr. Van Buren's views on this point :

"To close the door to cavil, I state ; 1st. That he holds that Congress does not possess the power to establish a national bank in any of the states of the Union, nor to establish, in such states, the branch of any bank, located



in the District of Columbia; and 2ndly. That he is, therefore, decidedly opposed to the establishment of a national bank in any of the states, and is also opposed to the establishment of any such bank in the District of Columbia, as unnecessary and inexpedient, and as liable to a great proportion of the abuses which have, in his opinion, been practised by the existing bank."

From these facts and statements, it appears to the present writer, that whatever may be thought of Mr. Van Buren's opinions on other topics, he will appear to be decidedly "committed" on the subject of a bank of the United States.

It may be proper, here, to remark that Mr. Van Buren was re-elected to the Senate of the United States on the 6th of February 1827, by a vote of twenty-three to eight in the Senate, and of eighty-two to thirty-one in the House of Representatives; uniting in both houses, the entire democratic votes.



CHAPTER XX.

MR. VAN BUREN's support of the bill providing for the surviving officers of the Revolution. Summary view of his sentiments on various political questions. His constant observance of the will of the people. Right and capacity of the people to direct the administration of the government.

In presenting a view of Mr. Van Buren's services as Senator of the United States, the support he rendered to the bill for relieving the surviving officers of the revolutionary army ought not to be omitted, though the discussion so far as he engaged in it, presented few abstract political questions. Great as should be the caution, in a republican government, in dispensing pensions or pecuniary provisions for any class of men, no public act of Congress ever drew forth, from the American people, a more unanimous, heartfelt and warm approval, than that by which a retributive provision was made for the patriots of the revolution.

Mr. Van Buren joined in the debate on this in-



teresting topic, at different times, and lent to the proposed measure the aid of his best exertions and utmost influence. A speech which he delivered in the Senate, on the 28th of January 1828, is among the most elaborate in point of argument, rich in historical illustration, and forcible in thought and language, to be found in the whole range of parliamentary eloquence.

It is a matter of sincere regret, that the plan of the present work is such as necessarily to exclude this eloquent tribute to the memory of a past generation, and appeal to the justice of the present.

Other subjects, of considerable temporary interest, received the attention of Mr. Van Buren, during his continuance in the United States Senate. The suppression of piracy, the Yazoo claims, the Florida wreckers, the Creek treaty, and indeed most of the leading topics which were discussed on the floor of the Senate chamber, called forth his opinions and often were the occasions of long and able speeches. These topics, however, not involving any cardinal political principles, are not particularly introduced in the present abbreviated summary. From the extracts already embodied in these pages, the reader may form some adequate estimate of his indefatigable exertions in the Senate, and a just and complete view, it is believed of his sentiments, on most of the leading political questions which agitate the community. Few public men have been more explicit and distinct, than Mr. Van Buren, in the avowal of their principles on all political questions: if these principles have failed to meet the notice of any one it

must have been through great inattention to public affairs. His opinions have been openly avowed ; they are on record before the public, and are here brought together, from sources which are open to all. It was truly said by himself, in his speech at a public meeting in Albany, in 1827, that in the " course of his public career, he had unavoidably been connected with political subjects, neither free from excitement, nor inconsiderable in point of responsibility." From the exposition here given, the candid reader may judge whether he has ever shrunk from that responsibility or been turned, by that excitement, from an independent and ingenuous course. It has been the aim of the present writer to adduce every thing which might tend to the clear exposition of his political sentiments ; nothing has been, intentionally omitted, glossed over, or unfairly represented. Mr. Van Buren's real opinions, as expressed by himself, whether right or wrong, just or unjust, have been fairly laid before the public in the foregoing pages. He would be singularly fortunate and happily exempt from the ordinary lot of humanity, if, in the course of a long political career, he had never expressed sentiments or advocated principles, which at a subsequent period and with a maturer judgment, he might wish to modify or recall. Doubtless, Mr. Van Buren's views of truth, like those of other men, have grown clearer with more mature reflection and riper years. If any progress of this kind be apparent, or any discrepancies, at different periods, appear, the means of detect-

ing them are now, fully, before his political opponents, from whom no mercy or indulgence will ever be asked by his friends in his behalf. The writer will, at least, be much mistaken, if the oft reiterated charge of withholding his sentiments from public view, does not meet with a perfect refutation in the foregoing pages. Misrepresentation will no longer have to contend with a shadow ; the substance appears, in too broad a light, to be unnoticed by the most imperfect and distorted vision. The political opinions of Mr. Van Buren, herewith committed to the public, are sufficient, at any rate, to occupy, for a considerable time, the ingenuity of his political opponents in their refutation.

It will be seen that he has been, from his earliest political life, opposed to the extension of the banking system, in all its shapes, and especially to a national bank in any form ; that he has labored in his native state, to extend the right of suffrage to its utmost limits ; that he has, with equal assiduity, struggled for the abolition of imprisonment for debt ; that he has urged with perseverance, though not, alas, with success, such an amendment of the constitution as would give the choice of President to the people, and withdraw it altogether, from the House of Representatives ; that he has opposed, with his utmost ability, those lax constructions of the constitution which have led to lavish expenditures for internal improvements and have tended to the enlargement of the powers of the General Government ; so as to endanger the sovereignties of the states ; that he has

been averse to a high tariff, though obedient to the will of his constituents, notwithstanding his personal judgment, on a point involving, in his opinion, no violation of the constitution; that on the great questions of disposing of the public lands; of protecting commerce, and of providing a tardy, but just compensation for the heroes of the revolution, he has avowed the most patriotic and liberal sentiments; that he has been the unwavering champion of national honor and the protection of the rights of American citizens, in his extraordinary zeal to sustain the late war, to suppress piracy and to secure the colonial trade; that in all the responsible and exciting conditions of a long and laborious political career, he has risen above considerations of personal interest and private resentment, and been guided by the most enlightened political principles and the purest devotion to the public weal.

No wonder, therefore, that he has, in an extraordinary degree, secured the approbation and won the confidence of the great body of the people. No wonder that he has, in his own distinguished success, demonstrated the truth of a sentiment he once expressed, that "while he had seen those who played a part, though they played it ever so well, after a brief season, exposed to the chilling indifference, if not positive contempt, of a generous but just community, he had never yet seen unpretending, but honest zeal and practical efforts to be useful, go without their ultimate reward."*

* Speech at the capitol in Albany, July, 1827.

Mr. Van Buren has, himself, on many occasions, announced the great rule of his public life. He said, in connection with the foregoing remark ; "It had been the business of his life to make himself acquainted with that public sentiment, which, though sometimes misled by excitement, was always honest, and in the end always right."

This entire deference to the popular voice, the first example of which, in a Chief Magistrate, was afforded by Jefferson, and the last by Jackson is, no doubt, regarded by a certain class of politicians as the most exceptionable feature in the public life of Mr. Van Buren. But to what safer tribunal can resort be had ?

Is wealth to form the qualification for judging of public affairs ? This will hardly be contended for. Are such matters to be submitted to the determination of those who are called great men ?—Men of striking genius are often deficient in sound judgment. Shall the learned control public opinion ? Learning is not wisdom, and the most cultivated minds, in all ages, have been too prone to cringe before tyrants. Shall orthodoxy in religion and correct morals be appealed to ? Then who shall fix the standard of truth ? Besides these excellencies do not, necessarily, imply the highest intellectual capacity. Where then shall we resort but to public sentiment ? What other criterion can be set up, than the majority of the people ? None ; perverted as that judgment may sometimes be, by prejudice and want of information, it is, with all its errors, the safest and surest standard of political truth.

CHAPTER XXI.

MR. VAN BUREN *supports Mr. Crawford for the Presidency in 1824. Opposes the administration of Mr. Adams. Sustains General Jackson for the Presidency, in 1828. Is elected Governor of the state of New York, and resigns his seat in the Senate. Introduces the "safety fund system."*

In February 1824, Mr. Crawford was nominated as a candidate for the Presidency, by a congressional caucus in Washington. Mr. Van Buren co-operated in this nomination and subsequently gave it his most vigorous support. Mr. Crawford had been a distinguished member of the cabinet for nearly ten years. In the congressional caucus to nominate a candidate for President, in 1816, he received nearly the same number of votes as were given for Mr. Monroe, and stood, certainly, next to that gentleman, in the public estimation. The admirers of the policy of Mr. Jef-

person looked to Mr. Crawford, as a candidate, who, if elected, would bring back the government to those principles. In the state of New York, which was violently agitated as to the manner in which electors should be appointed, Mr. Crawford received but *five* electoral votes, out of *twenty-eight*. In the electoral college, *ninety-nine* votes were given for General Jackson, *eighty-four* for Mr. Adams, *forty-one* for Mr. Crawford, and *thirty-seven* for Mr. Clay. In the house of Representatives, whither the election was thus carried, by the coalition of the friends of Mr. Adams and Mr. Clay, the former received the votes of *thirteen states*, General Jackson, of *seven*, and Mr. Crawford, of *four*. The ill health of Mr. Crawford, at this crisis, much impaired his chance of success. In the ultimate decision of the choice between Mr. Adams and General Jackson, Mr. Van Buren took no decided part.

It was obvious from the vote in the electoral college, that at the time of the election of Mr. Adams, General Jackson was preferred by a majority of the people. This preference was much strengthened by an increasing knowledge of his character and principles, as well as by the anti-democratic policy adopted by his rival. Mr. Van Buren, as we have seen, felt himself obliged to take the lead in vigorously opposing many of the measures of the administration of Mr. Adams. He was equally zealous and equally active in sustaining General Jackson for the Presidency, in 1828. Indeed, he warmly espoused the cause of

General Jackson soon after the election of Mr. Adams by the House of Representatives, in February 1825. The contest involved the same principles as were the subject of controversy at the election of Mr. Jefferson, in 1801. It was the struggle of the democratic principle against the united strength of various aristocratic factions. In the election of General Jackson, Mr. Van Buren plainly foresaw that he should witness the triumph of those principles for which he had struggled from his earliest years. In his defeat, he foresaw with equal clearness, the ratification of alarming encroachments upon the constitution and the confirmed perversion of the administration of the government from its true principles. In a contest involving such vital interests, he naturally put forth his most zealous and persevering efforts.

The happy result of this great struggle is known to all. It was such as to gratify the most ardent wishes of the patriot, and to afford new proof of the intelligence and patriotism of the people. It was a triumph which, in the words of Mr. Van Buren, "while it infused fresh vigor into our political system and added new beauties to the republican character, once more refuted the odious imputation, that republics are ungrateful."

By the death of Governor Clinton in February 1828, a vacancy occurred in the chief magistracy of the state of New York. The republicans of that state immediately fixed their hopes upon Mr. Van Buren for that office, and yielding to their pressing solicitations, he consented to become a

election. The election occurred in November, at the same time with the choice of electors of President and Vice-President. Smith Thompson, one of the justices of the Supreme Court of the United States, was the leading candidate of the opposition. Mr. Southwick was supported in the minority. Mr. Van Buren succeeded in a majority of thirty thousand votes over the nearest opposing candidate.*

Mr. Van Buren, having resigned his seat in the Senate of the United States, entered upon the duties of his office as Governor on the 1st of January 1829.

His message to the Legislature, transmitted on the 6th of January, is a document which displays the usual patriotism and ability of its author, and is replete with the most valuable information and the soundest political truth.

After alluding, in the highest manner, to the distinguished abilities of his predecessor, he proceeds to lay before the Legislature the general state of the various public funds, especially those of the canal: he throws out several suggestions with regard to internal improvements, but recommends caution in the adoption of new schemes. He says the most important business of the session, was the question of renewing the charters of the several banks in the state; thirty-one charters would expire in the course of four years, with a

* The votes were, for Mr. Van Buren, 136,794; for Thompson, 106,444; and for Southwick, 33,345.

capital of fifteen millions of dollars, and debts amounting to thirty millions. He alludes to the difference between their situation, at that time, and the laying of the foundation of the banking system anew ; and says, in view of the extent of these institutions and their close connection with the affairs of the community, that "to dispense with banks, altogether, is an idea which seems to have no advocate ; to make ourselves dependent on those established by federal authority, deserves none." He says that experience is against banks owned wholly by the state, and that to make stockholders liable, in their private capacity, throws the stock into the hands of irresponsible persons ; he reprobates the practice of "bonusses" for bank charters, and says, that compared [with the community, the stockholders are few, and hence that all legislative measures should refer exclusively to the safety and stability of the institutions. He finally concludes that the present, solvent banks cannot be so suddenly closed, without a violent disturbance of the interests of the public ; and alludes to "a sensible and apparently well-considered plan" which had been submitted to him, and which proposed "to make all the banks responsible, for any loss the public may sustain, by the failure of any one or more of them." He then presents a brief epitome of the "safety fund system," and concludes this part of his message with the remark, that "the interest which attaches itself to the representative character, can never be greater, than when the fulfilment of the trust com-

mitted to the Representative, may bring him in conflict with the claims of the great monied interests of the country."

On the 26th of January, 1829, Mr. Van Buren in a brief message, introduced to the favorable notice of the Legislature, the celebrated "safety fund system." This plan originated with the Hon. Joshua Forman, and was by him, laid before Mr. Van Buren. It was somewhat modified by the suggestion of the latter, and finally adopted by the Legislature. Mr. Van Buren's connection with the transaction cannot be more accurately characterized, than in the following extract from the letter heretofore alluded to, of the Hon. Thomas H. Benton, to General Davis, of Mississippi.

"Upon his (Mr. Van Buren's) elevation to the chief magistracy of the state, finding the system of banks so incorporated with the business and interests of the people, as to render its abolishment impossible, he turned his attention to its improvement, and to the establishment of such guards against fraudulent, or even unfortunate bankruptcy, as would, under all circumstances, protect the holders of notes against loss. The safety fund system was the result of views of this kind; and if its complete success hitherto, (for no bank has failed under it,) and the continued support and confidence of the representatives of two millions of people, are not sufficient to attest its efficacy, there is one consideration at least, which should operate so far in its favor as to save it from the sneers of those who cannot tell what the safety fund system is; and that is, the perfect ease and composure with which the whole of these banks rode out the storm of Senatorial and United States Bank assault, panic, and pressure, upon them last winter. This consideration should save Mr. Van Buren from the censure of some people, if it cannot attract their applause. And as for the politics of the safety fund banks, it has been recently, and authentically shown that a vast majority of them are under the control of his most determined and active political opponents."

CHAPTER XXII.

MR. VAN BUREN is appointed Secretary of State of the United States. Situation of our foreign relations, especially with Great Britain. Mr. Buren's successful administration of the Department of foreign Affairs. Resigns the office of Secretary of State.

Mr. Van Buren remained, but a short time, in the Chief Magistracy of the state of New York. On the 12th of March 1829, he resigned the office of Governor, in consequence of his appointment as Secretary of State of the United States. Of this appointment, General Jackson said, in his letter to the republican members of the Legislature of New-York, in February 1832 : " In calling him, (Mr. Van Buren,) to the Department of State, from the exalted station he then occupied, by the suffrages of the people of his native state, I was not influenced more by his acknowledged talents and public services, than by the general wish and expectation of the republican party throughout the union."

Short, as was his continuance in the office of

Governor of New York, he left the impress of his genius upon her institutions. This was true, especially, in regard to those protective restrictions upon the system of banking which have, since, so completely secured the community from losses of that kind. The splendid talents of his immediate predecessor in that office, had given to it a dignity and eclat, which no successor of ordinary resources could have sustained. But the genius and attainments of Mr. Van Buren suffered no disparagement in such palpable comparison with his illustrious predecessor. His executive career, though short, was brilliant and successful. Upon his withdrawal from the office, both branches of the Legislature, though each contained opposite partisans in politics, unanimously passed resolutions expressing the "highest respect for his virtues and talents," and "their earnest wish that he might enjoy a full measure of happiness and prosperity, in the new sphere of public duty to which he was about to be removed."

The republican members of the Legislature were still more emphatic in their expressions of affectionate and respectful attachment. On the eve of his departure, they presented to him a communication, in which they strongly stated "their attachment to his person, their respect for his character, and their regret at the separation which was about to take place," and tendered to him their thanks, "for the numerous and import-

ant services which he had rendered to the State, particularly in sustaining those political principles which they believed to be most intimately blended with its highest and dearest interests."

Mr. Van Buren was nominated, as Secretary of State, on the fifth of March, 1829; and entered upon the duties of the office in the early part of April. From this time forth he has been in stations so conspicuous, and his public conduct has been the subject of so severe a scrutiny, that it will be unnecessary to dwell upon its details with great minuteness.

The sphere in which he was now called to move, was new and responsible; but his long service in the Senate of the United States, and his careful observation of political affairs from the earliest period of his life, fitted him at once, to assume its duties. In the sequel, it appeared that his sound judgment, his political information, his calm temperament and indefatigable diligence, enabled him to conduct, on the most successful principles, the whole range of our relations with foreign governments, and thus, by his new station at the seat of government, to add to a reputation which had already risen above detraction and envy.

Our foreign relations at the time he came into office, were in a most embarrassed condition. The diplomacy of the former administration had failed in most of its objects. Negotiations with many of the powers of Europe had been lingering and languishing, for many years; and the most just and obvious claims of our citizens for in-

demnifications, had been rejected or postponed. The preceding administration had, indeed, unsuccessfully urged our claims upon France ; they had attempted, but without success, to open the Black sea to our commerce ; they had failed to form a treaty with Mexico ; they had been equally unsuccessful in obtaining from Colombia, such a reduction of their duties, as would place our trade upon the same footing with that of Great Britain. A convention had, it is true, been nearly brought to a close with Denmark and with Brazil ; but the claims of our citizens upon Sweden had been left to the enterprise of the agent of the claimants, and to the discretion of the Charge d'Affaires, who had received no instruction on the subject. But the most disgraceful failure in diplomacy, had attended the negotiations with Great Britain, in regard to the colonial trade.

The British Government, as is usual with governments that have colonies, retained the absolute control of all trade with the British West Indies. She had always refused to negotiate with any foreign power in regard to that trade.

In the convention of 1815, by express stipulation, the commercial provisions in the treaty did not extend to the British possessions in the West Indies ; and the British government adhered to their ancient policy of regulating this trade by Orders in Council. American produce was admitted, but under restrictions which greatly impaired the benefit of the trade. In July 1824, Mr. Rush, our minister in England, was charged with

the duty of attempting some negotiation, favorable to our interests on this point; but the attempt was unsuccessful. On the 5th of July 1825, the British Parliament passed an act tendering to foreign powers the most liberal terms of reciprocal intercourse with her colonies. Certain corresponding acts were required to be done on our part, to signify an acceptance of these propositions. Either from a want of information with respect to foreign affairs; or from inattention; or from the hope of extorting by diplomatic skill, still more favorable conditions, our government, Mr. Adams being President and Mr. Clay Secretary of State, neglected to accept the advantages proposed by Great Britain. In consequence of this omission, the British government, having waited for our compliance more than a year, in July 1826, by an Order in Council, revoked the terms proposed, and interdicted all trade with their colonies after the following December. The bad management of our government was then seen in its full extent. Not long afterwards, the documents connected with the transaction were called for and published, and the public voice was loud in reprobation of the administration. Early in the year 1826, Mr. Galatin was sent out with excuses for neglecting to comply with the proposition of the British government; and in 1827, he was instructed to intercede for the same terms which were freely offered in 1825. The attempt failed. Mr. Barbour succeeded him, and was directed to sue, again, for the same privileges. But his mission was al-

so vain, and it became apparent, that the British government were determined to hold no further negotiation with the administration of Mr. Adams, in relation to this matter.

The subject was brought, very fully, before the American people, and it pressed heavily upon Mr. Adams and his cabinet. No explanations which it was in their power to offer, could conceal from the community, the fact, that this valuable branch of trade had been lost by a pitiable course of indiscreet diplomacy.

Upon the accession of general Jackson to the presidency, and of Mr. Van Buren to the Department of State, the character of our intercourse with foreign nations was entirely changed. Instead of a wretched system of duplicity and double-dealing, derived from the corruptions of foreign courts, there was substituted plain and manly dealing. Nothing was attempted by indirect means or insincere professions ; but the plain common sense of foreign allies was appealed to, in a tone of dignity, firmness and candor, which showed at once, that our government was conscious of its rights, and neither disposed to transcend or fall short of their exact limits. Our foreign negotiations revived ; friendly relations were renewed with various countries ; and, under the guidance of our single-minded and upright President, Mr. Van Buren was enabled to turn his rare abilities to the greatest public benefit.

Our claims on France were now, after a period of nearly thirty years, first recognized and put in


the course of adjustment ; a treaty was formed with Mexico ; the Black sea was opened to our commerce ; and Colombia remitted the discriminating duties which had been a source of controversy. The conventions with Brazil and Denmark for seizures, were matured, and the Swedish claims safely brought home to the claimants.

But the most splendid results were derived from the negotiation with Great Britain. In July 1829, Mr. McLane was despatched, as minister to England, bearing instructions from the hand of Mr. Van Buren, who had then hardly entered upon the duties of his office. The clearness and strength, with which, under these instructions, he brought forth the claims of the government, resulted in complete success. The British government at once, appreciated the force of the considerations addressed to them, and recognized the spirit of firmness and candor, which so much distinguished the new administration from its predecessor. The success of the mission was complete ; an arrangement was formed which met the approbation of our government, and restored to our citizens those rights, which, through the indiscretion of Mr. Adams and Mr. Clay, had been for a time suspended.

During Mr. Van Buren's continuance in the State Department, and indeed, within the few first months of his service, some of the most important of our foreign embassies were despatched under his direction. Among these may be mentioned, the mission of Mr. McLane to Eng-

land, of Mr. Rives to France, of Mr. Preble to the Netherlands, and ministers to Spain and Columbia. In short, the supervision of a master-spirit appeared in every branch of our foreign relations ; and a series of diplomatic successes were effected, unrivalled in their number and importance in any other equal period of time, since the formation of our government. It was universally conceded, that more distinguished ability had never been displayed in the Department of State, since the period when it was under the direction of Jefferson.

But the other departments of the government did not proceed with equal success. Difficulties arose in the cabinet, and party spirit assailed Mr. Van Buren, in particular, with its utmost violence. He was obviously ascending, with rapid strides, to the highest pinnacle of political distinction ; and all the artifices of envy and political rivalry, were put in requisition to impede his progress. The differences of opinion between members of the cabinet, which he had exerted his utmost efforts to allay and remove, were falsely ascribed to his agency. In the end, it appeared that his judgment, courtesy, and great knowledge of the human heart, were not sufficient, any longer, to postpone a rupture. His last effort was, by a magnanimous self-sacrifice, to attempt the removal of difficulties which he ascribed to the jealousy of rival candidates for public favor ; and on the 11th day of April 1831, he communicated to the President, his determination to withdraw from the office of Secretary of State, though he continued to discharge its duties until the following month of June.



For this act of self-denying patriotism, he received the most virulent and illiberal abuse from his political enemies. Unable to appreciate the pure and patriotic motives which could lead the possessor of so advantageous a situation, to surrender the influence and prospects which belonged to it, they searched for other plausible causes, and failing to find them, resorted to the vilest fabrications. This charge may appear severe, but it is made in the words of truth, nor has any thing been detected or disclosed, from that time to the present, to throw the slightest cloud over the high-minded and disinterested conduct of Mr. Van Buren. When the perversions of party feeling and the mists of personal prejudice shall have been removed, this illustrious act of self-devotion to the best interests of his country, will be conspicuous amid the manifold merits of a public life, throughout distinguished for magnanimity and virtue.

CHAPTER XXIII.

MR. VAN BUREN *is nominated minister to the Court of St. James. The rejection of his nomination by the Senate. Extract from his instructions to Mr. McLane. Correspondence of the republican members of the Legislature of New York with the President, on the rejection of Mr. Van Buren.*

The unimpaired confidence of General Jackson, in the abilities and integrity of Mr. Van Buren, was manifested, immediately upon his withdrawal from the Department of State, by pressing upon his acceptance the mission to the Court of St. James. Mr. McLane had already, by his own request received leave to return home, the leading object of his mission having been accomplished. In urging the acceptance of this appointment, the President had in view the adjustment of a matter of the greatest public interest. The delicate questions respecting blockades, the impressment of seamen, and the right of search, which occasioned the late war with Great Britain, were not adjusted by the trea-

ty of Ghent. The time appeared favorable for calling the attention of Great Britain to these topics; and the President was anxious to depute upon this difficult negotiation, a diplomatic agent of such dignity of character at home, and eminence abroad, as would evince the deep importance he attached to the objects of the mission. Mr. Van Buren's great experience in political affairs, his intimate knowledge of all our foreign relations, his sagacity, firmness, and self-possession; his high sense of national honor, and his well-tryed patriotism, combined to designate him as the most proper person to manage these important interests.

Contrary to the earnest advice of his personal and political friends, who were anxious to retain him in the country, at that crisis, Mr. Van Buren yielded to the importunity of the President, and embarked for England. He arrived there, in September 1831; and was received, with distinguished favor, by the court of St. James.

Whether success would have crowned the efforts of Mr. Van Buren, it is impossible to say; as in the midst of a negotiation, commenced under favorable auspices, he was recalled by the most reckless and unexampled act of political proscription, to be found in history. His nomination was submitted to the Senate, on the 7th of January 1832; and on the 26th of the same month, rejected, by the casting vote of the Vice President.

It is almost superfluous to review the grounds of this most reprehensible and factious act, since

it has received the emphatic condemnation of the American people.


Three rival candidates for the Presidency, then held seats in the Senate. When General Jackson was nominated, by the Legislature of Tennessee, for that high office, and had determined to yield to the wishes of his friends in becoming a candidate, he immediately resigned his seat in the Senate of the United States, to avoid any imputation of exerting his official influence in his own behalf. Not so the famous triumvirate who proscribed a rival, in Mr. Van Buren. Representing the conflicting interests of the north, the south, and the west; opposed to each other on many of the cardinal principles of the government; violent antagonists in personal and political matters; they agreed and co-operated, only, in the single act, of attempting to crush a dreaded rival. His rapid progress in the favor of the public alarmed them: and it was their malignant, but vain hope, by a single act of violence, to hurl him from his lofty station and plunge him into obscurity.

The pretence for this high handed measure, so dishonorable to its participators, so injurious to the public interests, and so unjust to the individual concerned, was the tenor of his instructions to Mr. McLane, with regard to the West India trade. The state of that negotiation, at the time when Mr. Van Buren was appointed Secretary of State, has been briefly set forth in the foregoing chapter. The vacillating, time serving, and indiscreet policy

of the former administration, had resulted in an entire loss of this important branch of trade, and had so disgusted the British government, that they had refused even to entertain further negotiation. The policy of that administration had been loudly condemned by the American people; and those who were responsible for it, were hurled from power, by the public voice. Mr. Van Buren, in entering upon the charge of our foreign relations, set about endeavoring to regain this important branch of commerce. Abandoning the management and duplicity which had hitherto characterized our foreign intercourse on this point, he met the question with the plainness of one who was conscious he was on the right ground, and the firmness of one who was determined to maintain it. He uttered the voice of the American people, in avowing his disapprobation of the course before pursued; and frankly assured our ally, that the administration of which he was a member, would not be guided by a policy so contracted and illiberal.

His instructions on this point, which were the ostensible reasons for rejecting his nomination, are in the following words:

“Such is the present state of our commercial relations with the British colonies; and such the steps by which we have arrived at it. In reviewing the events which have preceded, and more or less contributed to, a result so much to be regretted, there will be found three grounds upon which we are most assailable; 1st, in our too long and too tenaciously resisting the right of Great Britain to impose protecting duties in her colonies;” 2nd, &c.



"The opportunities which you have derived from a participation in our public councils, as well as other sources of information, will enable you to speak with confidence, (as far as you may deem it proper and useful so to do,) of the respective parts taken by those to whom the administration of this government is now committed, in relation to the course heretofore pursued upon the subject of the colonial trade. Their views upon that point have been submitted to the people of the United States; and the counsels to which your conduct is now directed are the result of the judgment expressed by the only earthly tribunal to which the late administration was amenable for its acts. It should be sufficient that the claims set up by them, and which caused the interruption of the trade in question, have been explicitly abandoned by those who first asserted them, and are not revived by their successors. If Great Britain deems it adverse to her interests to allow us to participate in the trade with her colonies, and finds nothing in the extension of it to other to induce her to apply the same rule to us, she will, we hope, be sensible of the propriety of placing her refusal on those grounds. To set up the acts of the late administration as the cause of forfeiture of privileges which would otherwise be extended to the people of the United States, would, under existing circumstances, be unjust in itself, and could not fail to excite their deepest sensibility. The tone of feeling which a course so unwise and untenable is calculated to produce, would doubtless be aggravated by the consciousness that Great Britain has, by order in council, opened her colonial ports to Russia and France, notwithstanding a similar omission on their part to accept the terms offered by the act of July 1835. You cannot press this view of the subject too earnestly upon the consideration of the British Ministry. It has bearings and relations that reach beyond the immediate question under discussion.

"I will add nothing as to the impropriety of suffering any feelings, that find their origin in the past pretensions of this government, to have an adverse influence upon the present conduct of Great Britain."

It is unnecessary to examine these instructions in detail: they may be left, without comment, to the judgment of the plainest understand-

ing. They are marked by a tone of blunt common sense and patriotism, which cannot be perverted or misconstrued. There is not the slightest trace of a cringing or unpatriotic sentiment, to be found in them. The true ground of the odium, entertained against them and their author, was, that *they had been successful*. The former administration had disgracefully failed in the negotiation ; Mr. Van Buren had conducted it with complete success. It was desirable, in the eyes of his factious opponents, to cloud the brilliancy of this success, and to sully, if possible, the splendor of his well earned fame. It was desirable, if possible, not only to plunge him into mortifying retirement, but to aim a blow at the feelings and policy of the President ; to disgrace his previous successful negotiations, and check the expected consummation of those he was then so much intent on bringing to a conclusion. In the latter object they succeeded. They postponed the adjustment of important rights, at a moment peculiarly favorable for obtaining their acknowledgment ; they were not equally successful in crushing their rival, but their violent act recoiled upon themselves.

The palpable injustice of rejecting Mr. Van Buren is rendered more conspicuous, by the fact that these very instructions had previously been laid before the Senate, and had excited no remark ; that the minister who was nominated and acted under them, had been approved and confirmed by the same Senate ; that the treaty which was formed by

that minister, under these very directions, had also received the sanction of the Senate, and that, so far from reprehending the foreign functionary for acting in compliance with these directions, he had upon his return from England, been confirmed in his nomination to the office of Secretary of the Treasury.

Why were not objections raised to these instructions at an earlier period? Why was the minister approved who acted under them? Why was the treaty accepted which was formed in conformity to them? These questions cannot be answered without clearly disclosing the fact, that neither patriotism, nor a sense of duty, nor a tender regard for the public weal, were the true causes of Mr. Van Buren's rejection. It is too clearly apparent that political hate and the base design to traduce an absent rival, were the real grounds of the harsh and unprecedented rejection of the nominee.

In this light it was viewed by the great body of the American people. A murmur of indignation arose from every quarter of the Union; public meetings were held, resolutions adopted, and denunciations leveled against this high handed prostitution of the Senatorial prerogative, to the purposes of political hatred and personal ambition.

The republican members of the Legislature of New York, addressed a letter to the President, expressing in the strongest language, their indignation at the proscriptive act of the Senate, and their high respect for the public and private character of Mr.

Van Buren. The following extracts from the reply of the President, present a complete vindication of his character, in regard to this matter, from the lips of one, who, during a long life, has never been known to sacrifice the principles of truth to the strongest personal interests or attachments.

"I owe it to the late Secretary of State, to myself, and to the American people, on this occasion to state, that as far as is known to me, he had no participation whatever in the occurrences relative to myself and the second officer of the government, or in the dissolution of the late cabinet; and that there is no ground for imputing to him the having advised those removals from office which, in the discharge of my constitutional functions, it was deemed proper to make. During his continuance in the cabinet, his exertions were directed to produce harmony among its members; and he uniformly endeavored to sustain his colleagues. His final resignation was a sacrifice of official station to what he deemed the best interests of the country.

"Mr. McLane, our then minister at London, having previously asked permission to return, it was my own anxious desire to commit the important points remaining open in our relations with Great Britain, to a successor in whose peculiar fitness and capacity I had equal confidence: and to my selection, Mr. Van Buren yielded a reluctant assent. In urging upon him that sacrifice, I did not doubt that I was doing the best for the country, and acting in coincidence with the public wish; and it certainly could not have been anticipated that, in the manner of successfully conducting and terminating an important and complex negotiation which had previously received the sanction of both houses of Congress, there would have been found motives for embarrassing the executive action and for interrupting an important foreign negotiation.

"I can never be led to doubt, that, in the instructions under which that negotiation relative to the trade with the British West Indies was conducted and successfully concluded, the people of the United States will find nothing either derogatory to the national dignity and honor, or improper for such an occasion.

"Those parts of the instructions which have been used to justify the rejection of Mr. Van Buren's nomination by the Senate of the United States, proceeded from my own suggestion: were the result of my own deliberate investigation and reflection; and now, as when they were dictated, appear to me to be entirely proper and consonant to my public duty.

"I feel, gentlemen, that I am incapable of tarnishing the pride or dignity of that country whose glory, both in the field and in the civil administration, it has been my object to elevate: and I feel assured that the exalted attitude which the American people maintain abroad, and the prosperity with which they are blessed at home, fully attest that their honor and happiness have been unsullied in my hands."

The rejection of Mr. Van Buren was the first, in a long series of factious measures, which have unfortunately found support in the Senate of the United States, and which terminated in the unconstitutional denunciation of the President himself. These acts, into which one important department of the government has been hurried, by a coalition whose only bond of union, and apparently whose only rule of action, is hatred to the President and Mr. Van Buren, have shaken the confidence of the community in that provision of our constitution, which renders any portion of the public servants so long independent of the will of their masters, the people.



CHAPTER XXIV.

Nomination of Mr. Van Buren to the Vice Presidency of the United States. His election to that office. His sentiments on the interference of the General Government and of the free states, with the question of slavery.

When some one, in the presence of Fouchè, denounced the execution of the Duke D'Enghein as a guilty act of Napoleon : "Nay sir," said that arch politician, "it was worse, it was a gross political blunder!" Both censures apply to the rejection of Mr. Van Buren by the Senate of the United States. It was a most unjust and unwarrantable act, and a gross political blunder. It received at the hands of the American people, the rebuke which its enormity merited.

On the 22d of May, 1832, Mr. Van Buren was nominated as a candidate for the Vice Presidency by a convention of the democracy of the Union,

assembled at Baltimore, and at the same time with the re-nomination of General Jackson to the Presidency. The nomination was received with acclamation by the republican party, throughout the Union. In the election which succeeded, the candidates were successful. Of *two hundred and eighty six* electoral votes, General Jackson received *two hundred and nineteen*, and Mr. Van Buren *one hundred and eighty nine*. *Thirty* electoral votes in Pennsylvania, which were given for General Jackson as President, were given for William Wilkins as Vice President.

History rarely presents so splendid an example of retributive justice, as appears in the election of Mr. Van Buren to the Vice Presidency. Him whom the Senate had adjudged unfit to represent the nation in a foreign court, the sovereign people honored with the second office in the government. Mr. Van Buren was indeed recalled ; not however to obscurity and disgrace, as his enemies had hoped, but to the affectionate hearts of his countrymen, to be raised, by them, to the lofty station occupied by him whose especial vengeance had been wreaked upon his rival ; to preside over that very body who had sought, in his absence to tarnish his honor. How complete the triumph ! How just the retribution ! It realized the ideal standard of poetic justice. It rebuked a faction, and rewarded, according to his deserts, a patriot !

Mr. Van Buren was inaugurated, as Vice President, on the 4th of March 1833. The first exer-

cise of his duties as presiding officer of the Senate, was at the session of Congress near the close of that year.

In that capacity, he has had the good fortune to escape the censure of all parties. Since his election to the Vice Presidency, his opinions have been publicly declared on two occasions of considerable interest. One of these was the question of chartering a national bank in New York with such restrictions in its charter as to remove objections which are made to the present bank. His decided disapprobation of this measure was expressed in his letter to a friend already embodied in the present work.

The other subject is the right of interference with the existence of slavery, by the General Government, or by the people of the non-slave holding states. The following documents exhibit the sentiments of Mr. Van Buren on this question. The first is a letter addressed by him, to Mr. Samuel Gwin of Mississippi, and subsequently published in the Richmond Enquirer.

“WASHINGTON, July 11, 1834.

DEAR SIR: I owe you an apology for not having sooner acknowledged the receipt of your obliging letter of 26th May. My opinions on the subject of the power of Congress over slave property in the Southern States, are so well understood by my friends, that I am surprized that an attempt to impose upon the public respecting them should be hazarded.

The subject is, in my judgment, exclusively under the control of the state governments; and I am not apprised, nor do I believe that a contrary opinion, to an extent deserving consideration, is entertained in any part of the

United States. The charge, therefore, to which you have had the goodness to call my attention, that I 'am in favor of an interference by Congress, in manumitting your slave property,' is destitute of foundation: so far from it, I do not see on what authority the General Government could interfere, without a change of the constitution, even at the instance of either or of all the slave holding States.

With great respect, and regard,

I am, dear sir, very truly, yours,

M. VAN BUREN.

To SAMUEL GWIN, Esq., Clinton, Mississippi."

The following letter relating to the same subject was addressed to a gentleman in Augusta, Georgia, at a moment when the people of the slave-holding states were in a high degree excited at the proceedings of anti-slavery associations at the north.

"OWASCO, Sept. 10, 1835.

MY DEAR SIR: Your letter of the 22d ult. met me at this place, on my return from the Falls, and I lose no time in replying to that part of it which relates to the continued attempts to prejudice my friends, as well as myself, in the estimation of the South in respect to the slave question.

It is deeply to be regretted that there should be found, on the part of any, inducements sufficiently strong to increase an excitement, already so alarming, by a resort to imputations, in the truth of which no ingenuous mind can place the slightest confidence. The allegations which attribute to me views and opinions that are so justly obnoxious to the slave-holding states, are made in the face of the most explicit declarations on my part, denying all authority on the part of the Federal Government to interfere in the matter—against the propriety of agitating the question in the District of Columbia, and in the absence of a single fact, giving the least countenance to the unfounded imputations. I should poorly requite the candor with which I have hitherto been treated by the great mass of my fellow-citizens at the south, were I to allow myself to apprehend that those who would otherwise be

disposed to give me their confidence, could, under such circumstances, suffer me to be prejudiced in their opinion, by the unsupported assertions of my enemies, however reckless or vehemently persisted in. Were these fabrications, therefore, designed to affect me only, I should not hesitate to leave the matter as it stands, to the spontaneous action of my countrymen. But when it is intended to reach, in this way, those who honor me with their friendship, I do not feel myself at liberty to withhold any correction that may, by possibility, be useful to them. With this view I send you the enclosed proceedings of the citizens of Albany upon the subject, and authorize you to say, that I concur fully in the sentiments they advance. I was absent from the city at the time the meeting was held, but took an early occasion to advise its call, and to encourage the attempt to make it, what it has been, a meeting of the people, without reference to their sentiments on any other subject than that which was discussed before it. Connected with its proceedings are to be found the names of our principal state officers, executive and judicial, including the Governor of our state, with an array of private citizens which, for personal worth and weight of character, has never, to my knowledge, been excelled at any previous meeting.

It would be presumption in me to add any assurances of my own, as to the sincerity with which the sentiments they express are entertained, or of their disposition to make them effectual upon the important subject to which they relate.

May we not, then, hope that the proofs of an affectionate and just spirit towards the rights and interests of the South, which have been brought out by this hitherto threatening excitement, will have the effect, in future, to remove all unfounded impressions, and to put an end to every feeling and prejudice inconsistent with the principles upon which the Union was founded?

Earnestly cherishing this pleasing anticipation,
I am, dear sir, very truly, your friend and ob't. serv't,
M. VAN BUREN."

The leading resolutions adopted by the meeting alluded to in the above letter are as follows :

"Therefore, Resolved, That we regard the constitution of the United States as carrying with it an adjustment

of all questions involved in the deliberations which led to its adoption; and that the compromise of interests in which it was founded, is, in our opinion, binding in honor and good faith, independently of the force of agreement, on all who live under its protection, and participate in the benefits of which it is the source.

"Resolved, That under the constitution of the United States, the relation of master and slave is a matter belonging exclusively to the people of each state within its own boundary; that the General Government has no control over it; that it is subject only to the respective arrangements of the several states within which it exists; and that any attempt by the government or people of any other state, or by the General Government, to interfere with or disturb it, would violate the spirit of that compromise which lies at the basis of the federal compact."

CHAPTER XXV.

*The nomination of Mr. Van Buren to the office of President of the United States by a national convention.
His letter accepting the nomination.*

The Chief Magistrate of a great nation should combine in his character, a rare assemblage of high, intellectual and moral qualities. He should be endowed with a philosophic strength of mind, capable of reaching beyond formal rules, to fundamental principles; he should possess quickness of apprehension, so as to adapt his measures to unexpected circumstances and to the progress of public opinion; he should be equally removed, in his feelings, from a blind attachment to antiquated forms, and from a spirit of useless innovation; he should be blessed with a coolness and comprehensiveness of judgment, which, embracing the present, the past, and the future, should rise, in the most sudden emergencies, above temporary expedients and estimate the remote consequences of an action; and he should unite to these

qualities, that happy combination of discretion with energy, which enables its possessor to defend with firmness, and to concede with dignity.

This rare assemblage of high mental endowments, the friends of Mr. Van Buren believe him, in an eminent degree, to possess, and their attention has long been directed to him, as a suitable successor to the venerable patriot who now fills the Presidential Chair. The public sentiment has been expressed, to this purport, in various sections of the country, by the public press and by the proceedings of various public bodies. Indeed, it has been obvious to the most cursory observer, that the republican party, throughout the Union, have, for a considerable period of time, been fixing their hopes upon Mr. Van Buren, as best qualified to perpetuate those sound principles of policy which have guided the present administration.

To obtain a clear expression of the popular will, a national convention of delegates from the republicans in each state, was early agreed upon. This convention assembled in Baltimore, on the 20th day of May 1835. More than six hundred delegates were in attendance, and twenty-two states with two territories, were represented.

Upon the first ballot, Mr. Van Buren received the *unanimous vote* of the whole assembly for the office of President. Richard M. Johnson was subsequently nominated for the office of Vice President. The letter of a committee of the convention, announcing this nomination to Mr. Van Buren, and his reply thereto are subjoined :

"MAY 23, 1835.

SIR: A convention of republican delegates from various parts of the Union, for the purpose of selecting suitable candidates for the offices of President and Vice President, assembled in Baltimore on the 20th instant, and unanimously agreed to present to their country, your name for that of President of the United States. We have been requested to communicate to you this nomination, and ask your acceptance of the same. We take pleasure in performing, this duty, and respectfully solicit an answer at such time as may suit your convenience to give one.

With sentiments of high esteem, and respect, we have the honor to be, your obedient servants,

A. STEVENSON, *President.*

JAS. FENNER,

EDWARD CONDUCT,

UPTON S. HEATH,

R. STRANGE,

J. B. NEVITT,

FRANKLIN CANNON,

Vice Presidents of the National Convention.

To MARTIN VAN BUREN, Esq. of New York."

"WASHINGTON, May 29th, 1835.

GENTLEMEN: I have the honor to acknowledge the receipt of your letter of the 23d instant. The nomination you have been deputed to announce to me presents the only contingency, upon the occurrence of which, I could consent to become a candidate for the high office of President of the United States. When my name was first associated with the question of General Jackson's successor, more through the ill will of opponents than the partiality of friends, I determined to wait for the development of the views of the republicans of the Union, and to pursue that course only which their unbiassed judgment should finally recommend. I deemed that course to be due to the administration, of which I was a member—to the best interests of the country—and to the indivisibility of a political party, by the original organization of which, the overthrow of republican principles in the United States was prevented, and upon the ascendancy of which we can alone depend for their preservation. To the offers of support which were at that period occasionally made to me from different quarters of the Union, I respectfully replied, that the public good, in my opinion, required the services of General Jackson for a second term—that the

agitation of the question of his successor, at that early period, must of necessity embarrass the administration—and that it was my desire that my name should not be connected with the subject. From that time to the present, I have neither solicited the aid nor sought the support of any man in reference to the high office for which I have been nominated; unless my replies to interrogatories from my fellow citizens upon public questions, and my sincere endeavors to make myself worthy of the respect and confidence of the American people, are liable to that construction. For the truth of this declaration, I can safely appeal to the hundreds of honorable men who composed the recent convention—to the numerous editors and politicians throughout the Union, who have distinguished me by their preference, and to my private correspondents and intimate friends, not excepting the considerable number of persons, once my friends and associates, whom the fluctuations of political life have converted into opponents. In none of these classes, or in any other of our community, is there a man who can truly say, that I have solicited his political support, or that I have entered or sought to enter with him into any arrangement, to bring about the nomination which I have now received, or to secure my elevation to the Chief Magistracy of my country.

The liberal men of all parties, I trust, and you and those you represent, I am sure, will pardon me for having thus spoken of my own conduct in reference to a point upon which I have been the silent object of attack, as causeless as it has been violent and unremitted; especially, as I alone can answer for it in relation to all my countrymen, although thousands may be ready to answer in relation to themselves.

Under these circumstances, the democracy of the nation, in convention assembled, having, as you inform me, with a degree of unanimity that I cannot too highly appreciate, pronounced me worthy of so great a trust, I cannot hesitate in making their wishes the rule of my conduct. I do, therefore, with a deep, and I hope abiding sense of the honor conferred upon me by their preference, accept the nomination which has been tendered to me by the convention.

I am not aware that there is any point of interest in the general policy of the Federal Government, in respect to which, my opinions have not been made known by my official acts—by my own public avowals, and by the authorized explanations of my friends. If there be any such,

however, you may rest assured of my ready disposition to comply, on all suitable occasions, with the wishes of my fellow citizens in this regard. I content myself, on this occasion, with saying, that I consider myself the honored instrument, selected by the friends of the present administration, to carry out its principles and policy; and that, as well from inclination as from duty, I shall, if honored with the choice of the American people, endeavor to tread generally in the footsteps of President Jackson—happy, if I shall be able to perfect the work which he has so gloriously begun.

It cannot be denied, that there is no country in the world, whose inhabitants are so well secured in their civil and religious rights, and enjoy so large a share of prosperity and happiness, as the people of the United States. For this, they are indebted less to salubrity of climate and fertility of soil, than to our excellent system of government; by which, more than any other, every man is protected in the application of his powers and faculties to his own benefit. That dissatisfaction should nevertheless occasionally arise, even under the best administration of a system capable of producing such happy results, is not to be wondered at. Until the wit of man shall be able to devise some plan of Representative Government, by which all who think themselves qualified, may be, at the same time, admitted to a participation in the administration of its affairs, we must not expect to be relieved from the spirit of complaint, or even surprised to find it most vehement at a period of the greatest prosperity. But between partisan complaints as to the management of our government, or even diversities of opinion in relation to the wisdom of supposed improvements in the details of its construction, and a desire to undermine and overthrow it, there is an immeasurable difference. Whilst the one can, at worst, but produce partial and temporary obstructions in the public service, success in the other would inevitably plunge our country, from its present lofty eminence, into an abyss of anarchy and ruin.

We hold an immense stake for the weal or woe of mankind, to the importance of which we should not be insensible. The intense interest manifested abroad in every movement here, that threatens the stability of our system, shows the deep conviction which pervades the world, that upon its fate depends the cause of Republican Government. The advocates of monarchical systems have not been slow in perceiving danger to such institu-

tions in the permanency of our Constitution, nor backward in seizing upon every passing event by which their predictions of its speedy destruction could be in any degree justified. Thus far, they have been disappointed in their anticipations, and the circumstances by which they were encouraged, however alarming at the time, have in the end only tended to show forth the depth of that devotion to the Union, which is yet, thank God! the master passion of the American bosom.

Thoroughly convinced that the overthrow of our present constitution and the consequent destruction of the confederacy which it binds together, would be the greatest sacrifice of human happiness and hopes that has ever been made at the shrine of personal ambition, I do not hesitate to promise you, that every effort in my power, whether in public or private life, shall be made for their preservation. The father of his country, foreseeing this danger, warned us to cherish the Union as the palladium of our safety, and the great exemplar of our political faith, Thomas Jefferson, has taught us, that to preserve that common sympathy between the states, out of which the Union sprang, and which constitutes its surest foundation, we should exercise the powers which of right belong to the General Government, in a spirit of moderation and brotherly love, and religiously abstain from the assumption of such as have not been delegated by the Constitution.

Accept gentlemen, my thanks, for the kind manner in which you have performed the duty assigned to you, and believe me to be, very sincerely, your friend and obedient servant.

M. VAN BUREN.

To ANDREW STEVENSON, Esq. President, and

JAMES FENNER,

EDWARD CONDUCT,

UPTON S. HEATH,

ROBERT STRANGE,

J. B. NEVITT, and

FRANKLIN CANNON, Esqrs.

Vice Presidents of the late National Convention."

CHAPTER XXVI.

CONCLUSION.

In the foregoing pages, the writer has attempted to present an accurate and full view of the personal history of Mr. Van Buren, and a clear exposition of his political opinions. The firm belief of the writer in the most ultra democratic doctrines, and his partiality towards the subject of this narrative as the champion of those doctrines, he has not anywhere affected to conceal. No doubt this strong bias of his mind has led him to take views of certain public events, widely different from those which are entertained by persons of an opposite political faith. He has, however, strenuously endeavored not to distort, conceal or misrepresent, facts. The incidents of Mr. Van Buren's life have been fairly stated, and his opinions fully displayed. Every reader is at liberty to connect with them such sentiments of approval or reprobation as they may seem to require.

"Hanc veniam damus, petimusque vicissim."

The narrative has exhibited the son of a humble farmer, rising through the several grades of professional and political promotion, to the second office in the government. The friends of Mr. Van Buren ascribe this remarkable elevation to superior ability and virtue ; his enemies charge it to intrigue and accident. It appears, however, to be universally admitted, that he is endowed with extraordinary abilities of some kind. This concession has, at length, been extorted from the most unwilling lips. During many of the earliest years of his public life, he was denied, not only honesty, but ability. In regard to the latter endowment, the mouth of calumny has been effectually stopped. Mr. Van Buren, in the course of his long political career, has always shown himself fully equal to the various stations he has held, and the severe responsibilities which have been devolved upon him. At each successive step in his advancement, his enemies have predicted his failure, but the result has covered themselves with confusion. He has never failed to meet the highest expectations of his friends and has not unfrequently surpassed them. His ability, therefore, to administer any office in the government, both in respect of natural parts and acquired knowledge, is no longer a matter of doubt. His past success amounts to demonstration on this point.

With regard to his integrity and patriotism, and the accordance of his political principles with the

true interests of the country, a similar unanimity of opinion cannot, in the present generation, be expected. The great body of the people, however, appear to entertain perfect confidence in these qualities of his mind and character. Still, it is the theory of not a few, that the people are unable to judge rightly on these points, and that their singular attachment to Mr. Van Buren, as well as to President Jackson, is the result of blind prejudice, excited by appeals to their worst passions.

It is probably useless to remonstrate with men who entertain such views ; nature has so made them that they are not open to conviction from arguments which satisfy the great body of their fellow men. Still, it may not be amiss to advert to one or two facts, strongly tending to show that their belief in the credulity of the people is ill-founded and unjust.

If the great mass of the community are led by sophistry and the artful representations of ingenious men, how happens it that their opinions are formed to their present standard ? It may be safely stated that two thirds of the public presses in this country, are opposed to the principles of the present administration. The periodical reviews and literary journals lean against the democratic cause without a single exception. Public seminaries of instruction, the learned professions and a vast preponderance of the literary and oratorical talent of the country, are under the same bias. English literature so extensively circulated among us is pervaded by the same principles.

Wealth, fashion and inherited distinction are, to a great extent, arrayed against the democratic cause. How then does it happen that the people are guided by opposite sentiments? If they may be imposed upon by plausible demagogues, or cajoled by flattery, or alarmed by exaggeration, or blindly led by example, why has the unceasing application of all these means, by the horror-stricken enemies of popular misrule, hitherto failed to produce its natural effect?

The true answer to this question is, that the great mass of the American people are not so meanly endowed and so unhappily constituted. There is an honest love of truth, a blunt native judgment, a piercing sagacity, in the great mass of the people, which cannot be widely led astray from the principles of truth, patriotism and virtue. The demagogue can never meet the approbation of these sentiments. Intrigue and hollow-hearted patriotism wither before them. They are attracted, instinctively, by the capable and honest public servant; they recoil from the political gambler.

One would think that the experience of the past would have taught designing politicians, that the combined influence of unbounded wealth and a partizan press can never turn public sentiment, for any considerable period, from the channel of truth.

The democratic usage, of selecting those men for office who will faithfully express the will of the people, leads to that coincidence of sentiment, between

republicans and their public agents, which is characterized by their opponents as servility. It is illustrated in the example of General Jackson. The leading measures of his administration have been ardently approved by the democracy. This results it is said, from blind attachment to a leader, without the capacity to form a just judgment of his public measures. The democratic party, it is alledged, are so organized and drilled by the artful partizans of the President, as to follow him, whithersoever he may lead.

But the true cause of the surprizing harmony which exists between the President and the people, is either not understood by the anti-democratic party or is misrepresented. The truth is, that the President has been sustained in his measures, because they have all been based upon a careful observation, and thorough knowledge, of the popular will. The President has had the sagacity to observe the sentiments of the great body of the people and the integrity and firmness to carry them into effect. He has collected and embodied the wishes of the people ; he has felt himself, constantly, to be their agent and minister ; and if he has seemed to lead public opinion, it has been because he is endued with a penetration which has enabled him to foresee its current, and by throwing himself at its head, to bring its full force to sustain him. Guided by the fundamental principle, that the will of the majority should, in all cases, control, he has never attempted to defeat that will. He has earnestly endeavored to ascertain the

wishes of his constituents, and having ascertained them, he has labored, with astonishing firmness, vigor and capacity, to carry them into effect. This is the source of that attachment which binds the heart of every true republican to the great political father of the democracy. Many a plain farmer or mechanic, reflecting amid his solitary labors, on the "Great American System," the Bank, and other deeply contrived measures of general policy, and gradually forming his own mind into a clear view of their bearing upon the interests of the country, has been astonished to find a veto message or proclamation, from the chief magistrate of the nation, suddenly lighting up his mind, unlocking as it were his own secret thoughts, coinciding with his own internal convictions, but displaying them with such clearness and strength as to leave him no longer in doubt. He sees that the President has reasoned as he is reasoning, but with greater rapidity and vigor; he feels that the breast of the President beats in unison with his own; that he is truly one of the people, identical in his wishes and feelings with the plain farmer at the plough. It is impossible for him not to repose confidence in such a man and fasten affection upon him. It is evident that the same sympathetic cord, which binds the hearts of true republicans to each other throughout the Union, unites them all to their firm and faithful friend at the head of the government.

The foregoing narrative has exhibited the political views and public life of Mr. Van Buren; and

from thence, it may be possible to conjecture, whether he will succeed to that place in the confidence of the people, which is occupied by the present Chief Magistrate of the nation. It only remains for the writer to add, that the private character of Mr. Van Buren is above all censure or suspicion. In the relations of father and son, of husband, brother, and friend, he has always displayed those excellencies of character and feeling which adorn human nature. His delicate kindness to the partner of his bosom, while her life was spared, his filial devotion to his parents, his generous affection for the whole circle of his relatives, are attractive traits in his character, on which, did propriety permit, the writer would gladly dwell. Extending our view to the larger circle of his personal friends, rarely has any man won a stronger hold upon the confidence and affection of those with whom he has been connected. The purity of his motives, his integrity of character, and the steadiness of his attachments, have always retained for him, the warm affection of many, even among the ranks of his political opponents.

Mr. Van Buren has ever been an exemplary and strict observer of those moral rules which are essential to the well-being and decorum of society. He has never sought to display the strength of his mind by daring infractions of wholesome institutions, which are by some regarded as a rule of conduct only for ordinary understandings. Notwithstanding his long connection

with the most exciting political questions and conflicts, he has avoided those personal rencontres, into which political leaders are too often, almost by necessity, drawn. Not the slightest stain rests upon the purity of his moral character ; it has been so bright and unsullied, that calumny has seldom ventured to assail it.

The ease and frankness of his manners, his felicitous powers of conversation, and the general amiableness of his feelings, render him the ornament of the social circle. Uniting in his character firmness and forbearance ; habitual self-respect and a delicate regard for the feelings of others ; neither the perplexities of legal practice, nor the cares of public life, nor the annoyances of party strife, have ever been able to disturb the serenity of his temper, or to derange for a moment the equanimity of his deportment. He has with equal propriety, mingled in the free intercourse of private life and sustained the dignity of official station. Amid the most violent party conflicts, he has retained the personal respect of those opponents, who have personally known him, and not unfrequently their confidence and friendship.

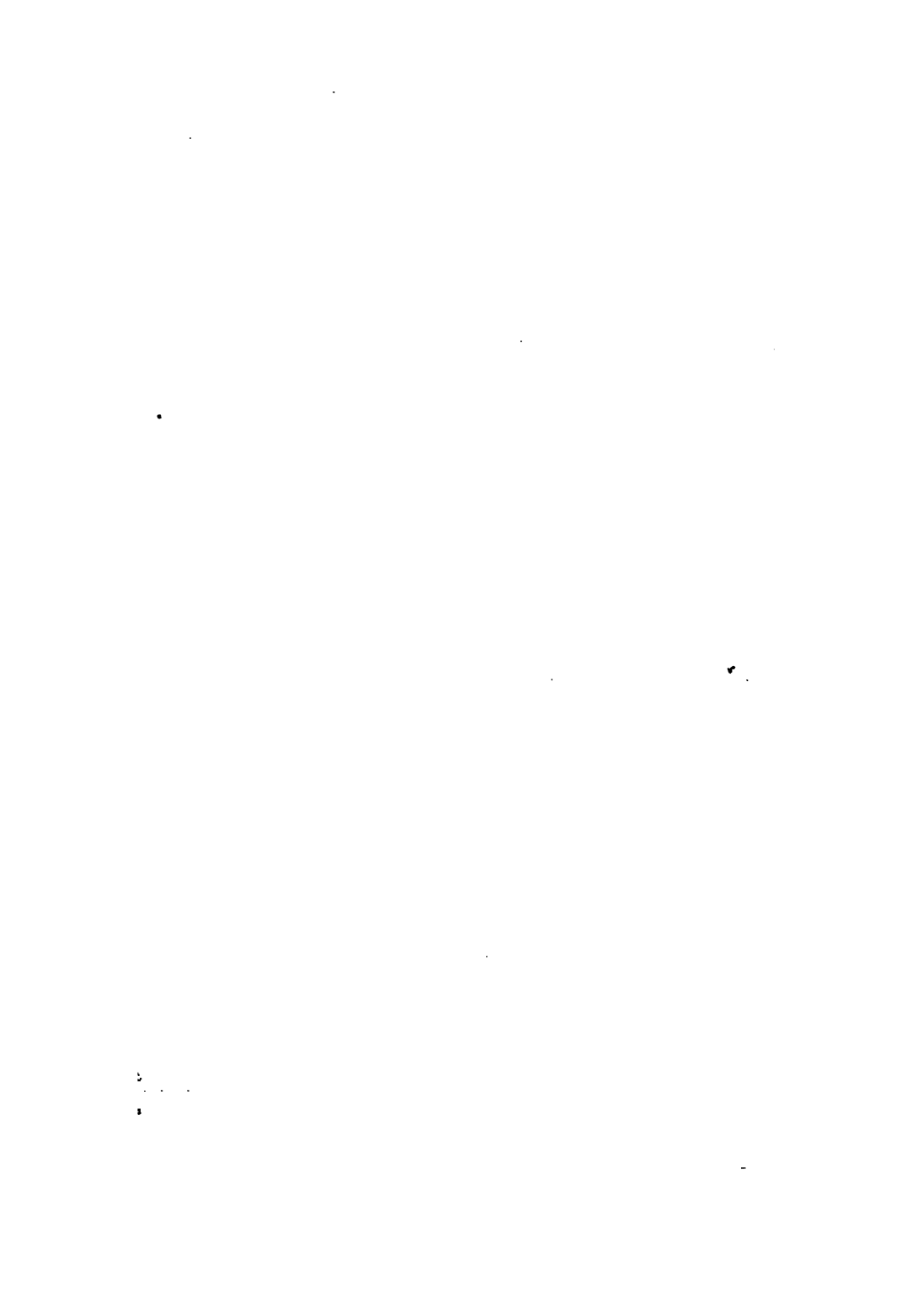
As a politician, his course, though decided and unyielding, has always been liberal, open and honest. No instance of bad faith, no example of double-dealing, no act of duplicity or disingenuousness has ever been fastened upon his political character. His friends challenge the severest scrutiny on this point, and invite the most unscrupulous exposure. He has himself done so, in his

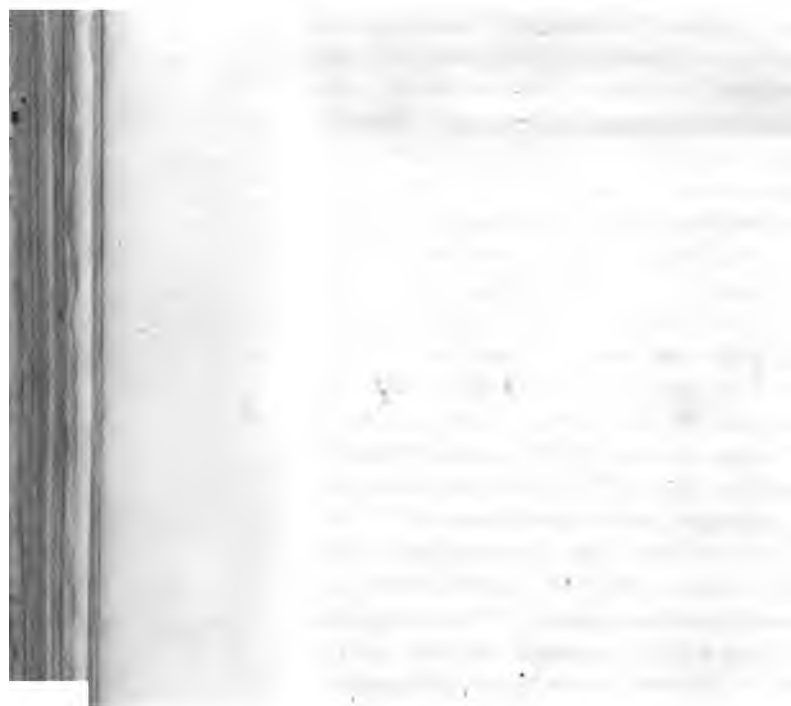
acceptance of the Baltimore nomination. Surely, amid vigilant enemies and treacherous friends, the means of proof must exist, if there be any instance of intrigue or secret management in his public life. The public will not be satisfied with vague, general charges ; proof must be given of specific acts. By such proof alone, can his enemies gain the public ear ; it has been too often temporarily deluded by empty and false accusations. Without such proof, the common sense of mankind will be slow to believe that his regular and steady progress towards the highest honors of the government, through a long course of public service, is ascribable to the low artifices of duplicity and cunning. Such a supposition, implies too harsh an imputation upon the penetration and virtue of the nation to be for a moment admitted. His success as a political leader, will, rather, continue to be ascribed to the superiority of his genius, the extent of his attainments, the intrinsic excellence of his character, and his admirable knowledge of men. His clear perception of truth, his predominating good sense, the honesty of his own motives, and his sagacity in detecting the motives of others, have indeed endowed him with a rare talent of harmonizing, concentrating, and directing the varied feelings and exertions of the members of a great party. It is a talent which characterizes true greatness, and is as far removed from the intrigue and cunning of low politicians, as is the lofty ambition of the patriot from the mean self-exaltation of the demagogue.

In personal appearance, Mr. Van Buren is about the middle size ; his form is erect and slender, but is said to be capable of great endurance. His features are animated and expressive, especially the eye, which is indicative of quick apprehension and close observation ; his forehead exhibits, in its depth and expansion, the marks of great intellectual power. The physiognomist would accord to him penetration, quickness of apprehension, and benevolence of disposition. The phrenologist would add, unusual reflective faculties, firmness, and caution.*

If the advancement of Mr. Van Buren be destined to terminate at the present point, he will leave behind him a reputation which rarely falls to the lot of any man. To have risen from the humble walks of life, in times of peace, by his own unaided exertions, to the second office in the gift of of a great nation, will be fame enough to satisfy reasonable ambition. "The past, at least, is secure." He has already raised a monument of his genius and exertions, which will defy the corroding tooth of time. He has enrolled his name among the most illustrious statesmen of the age and nation. He has illustrated, in his own example, the happy nature of our institutions, which afford so free a field for the expansion of talent, however humble its origin, and which insure to integrity and perseverance, a just and generous reward.

* The portrait engraved for this volume, by an artist of well known eminence, is from a picture of Inman, painted for the corporation of the city of New-York.







THE BORROWER
AN OVERDUE FEE IF THIS BOOK IS NOT
RETURNED TO THE LIBRARY ON OR
BEFORE THE LAST DATE STAMPED

3 2044 021 246 681

The borrower must return this item on or before
the last date stamped below. If another person
places a recall for this item, the borrower will
be notified of the need for an earlier return.

*Non-receipt of overdue notices does **not** exempt
the borrower from overdue fines.*

Harvard College Widener Library
Cambridge, MA 02138 617-495-2413



Please handle with care.
Thank you for helping to preserve
library collections at Harvard.

